



An
Bord
Pleanála

Inspector's Report ABP-318948-24

Development	Templemore Redundant Channel Infill Project located on the edge of Templemore town centre and runs southwards from opposite Templemore Town Park to Talavera, just south of Small's Bridge.
Location	From Town Park to Talavera, Templemore, County Tipperary
Local Authority	Tipperary County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	Department of Housing, Local Government and Heritage, Uisce Éireann
Observer(s)	Peter Kennedy, Cathryn and Michael Ryan, Young Family, Eamon Butler, Carmine and Susan Iannelli,
Date of Site Inspection	11 th July 2024
Inspector	David Ryan

1.0 Introduction

- 1.1. Tipperary County Council is seeking approval from An Bord Pleanála to undertake the Templemore Redundant Channel Infill Project in close proximity to the Lower River Suir SAC which is a designated European site. There is one other designated European site (SAC) in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development Act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Site Location

- 2.1. The site is located within Templemore Town, within and to the north and south of the town centre. The site at c.3.09 hectares follows an abandoned section (approximately 805 metres) of the River Mall and runs southwards from opposite Templemore Town Park to Talavera, just south of Small's Bridge. The River Mall is no longer a functioning watercourse following the Mall River (Templemore) Flood Relief Scheme and diversion works carried out by the OPW in 2021. The channel is predominantly bounded by stone walls to roads, by private and commercial properties, agricultural lands and includes bridged access points to properties. There are 26 surface water outfalls and existing drains currently flowing into this redundant channel from the east and west banks at varying elevations and diameters. The site terminates at the upstream side of an existing oil interceptor and headwall, with the existing River Mall channel to the south of this location.

- 2.2. The northern area of the site includes for the Blackcastle/Dunkerrin Road/Templemore Demesne and its intersection with the N62 (Richmond Road and Patrick Street) at O'Dwyers Bridge, which adjoin commercial and residential properties. The site also includes for The Mall running south from the N62 and Church Avenue to its southern area at Small's Bridge.
- 2.3. The site includes for 2 no. Protected Structures (TMS73 O'Dwyer Bridge, TMS89 Small Bridge) and is adjacent the Protected Structure TMS41 Ryan's Xpress Stop, listed on the Templemore and Environs Development Plan 2012. The site is also partially located within an Architectural Conservation Area (Main Street/Patrick's Street). Houses located to the east of the site on Patrick Steet and the Mall are included on the National Inventory of Architectural Heritage (NIAH) under Ref. 22308013, 22308030, 22308050.
- 2.4. The river drains to the Lower River Suir c.1.5km to the east of the site, draining to the Lower River Suir SAC c.15km downstream. Part of the site is also within the Town Park car park which is a proposed Natural Heritage Area Templemore Wood (000942).
- 2.5. The site also includes for agriculture lands to the south of Church Avenue which entails deposits of topsoil, boulders and rocks.

3.0 Proposed Development

- 3.1. The Proposed Development will consist of, but not be limited to, the following works:
- The construction of a 900mm drainage header pipe in the existing redundant channel section of the River Mall and manholes.
 - Provision for the connection of 26 existing surface water outfalls, currently discharging to the redundant channel section of the River Mall, to the 900mm drainage header pipe along with all accommodation works.
 - The infilling of the redundant channel section, including pipe surround of the 900mm drainage header pipe, to match existing ground elevations surrounding the river channel.

- Provision of a footpath and grass area over the infilled river from Templemore Town Park pedestrian entrance to a point 100m south in the direction of the N62, behind an existing stone wall / parapet.
- Provision of approximately 100m of new footway adjacent to the Blackcastle Road to the junction of the N62 (at Young's garage), with a footway width by 1.8m which and reduced carriageway width.
- Removal of existing parapet wall to create an AC hard standing area adjacent to Youngs garage.
- The demolition of approximately 50m of existing stone wall and bridge parapet north of the N62 to allow for the construction of a new proposed footway to match existing from O'Dwyer Bridge.
- Provision of improvement works north of O'Dwyer bridge for approximately 40m to include increasing corner radius, installation of aggregate bollards and hard landscaping area.
- Widening of the carriageway crossing O'Dwyer bridge along the N62.
- The demolition of approximately 15m of existing stone wall and bridge parapet south of the N62 to allow for improvement works to include a new footway, increased corner radius and increase sight lines between The Mall Road and the N62.
- Construction of approximately 70m AC pavement over the existing channel south of the N62 and maintenance of the existing stone wall / parapet.
- The demolition of sections of existing stone walls to allow for the construction of a new proposed footpath from O'Dwyer Bridge to the Templemore Town Park.
- Construction of a proposed stone wall separating the property boundaries and the proposed footpath, along with associated streetscape works at O'Dwyer Bridge.
- Landscape works to match existing surrounding environment at the Templemore town park.

- Construction of proposed hardstand/pavement over existing channel at Youngs Garage and Templemore Motor Works.
- Demolition of existing bridge structures at residential accesses
- Landscape works to match existing surrounding environment from Templemore Motor Works, in a southerly direction, to the outfall to the existing River Mall.
- Construction of a discharge headwalls.
- Construct new agricultural entrance approximately 180m south of O'Dwyer's bridge on the western side of the Mall Road.

- 3.2. The proposed drainage header pipe has been designed so that the velocities achieved fall within the limits of 0.8 and 3.0m/sec as set out in 'Recommendations for Site Development Works' as published by the Department for the Environment. It will terminate south of Small's Bridge (approx. 150m), out falling to the existing River Mall. The header pipe will terminate at the upstream side of an existing oil interceptor prior to discharging to the River Mall to prevent contamination.
- 3.3. In relation to proposed infill works, the River Mall (Templemore) Flood Relief Scheme excavated approximately 20,600m³ of material, with material mostly consisting of sub-soil, alluvial soils, till deposits and bedrock. Where possible, local material excavated as part of the flood relief scheme will be used for infilling the redundant channel.
- 3.4. The proposed development also includes for a road safety improvement scheme. This includes for improvement works at the junction of the N62 with Blackcastle Road and The Mall. Surface finishes at pedestrian areas will include concrete footpaths and precast concrete granite aggregate slabs. As areas located at Young's Garage and at Templemore Motor Works have the potential for future vehicular trafficking these will have a macadam finish. Green areas will include a topsoil surface seeded with grass.
- 3.5. Works are scheduled to last for 24 weeks.

4.0 Planning History

- PA. reg.ref 2460483 Extension to rear of existing dwelling and all associated site works within/bounding the site - pending
- PA. reg.ref.12530001, 18600024, 16601204 include for residential developments/domestic extensions granted within/bounding the site
- P.A reg.ref. 16600733 Change of use of existing ground floor from public house to a restaurant/takeaway, including new signage and all associated site works granted
- P.A reg.ref. 08530014, ABP ref. PL 78.232982 Change of use from public house/residential to restaurant with staff facilities and material alterations to internal and external fabric of building and all siteworks granted. Extension of duration granted under P.A reg ref. 14530004

4.1. There are a number of recent planning applications made in the vicinity, which are pertinent to the application currently before the Board.

- OPW River Mall (Templemore) Drainage Scheme - Diversion of the River Mall (i.e., Templemore_Demesne river [EPA Code: 16T38]/Suir_030 WFD river water body [IE_SE_16S020300]) within the town through a long diversion channel approximately 805m in length that begins in Shortt's Field and finishes approximately 230m downstream of Small's Bridge. Granted 2017. Gov.ie outlines it is currently anticipated that substantial completion for The River Mall (Templemore) Flood Relief Scheme will be achieved prior to the end of 2024.
- Reg. ref. 211053 permission for retention granted for as constructed development previously granted under PI04530740, also for boundary treatments, security fencing and revised site boundaries.

5.0 Legislative and Policy Context

5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.

Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.3. **National nature conservation designations:**

5.3.1. The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.3.2. European sites located in proximity to the subject site include:

- Lower River Suir SAC (002137)
- Kilduff, Devilsbit Mountain SAC (000934).

5.3.3. Part of the site is located within the pNHA Templemore Wood (000942). The pNHA Kilduff, Devilsbit Mountain SAC (000934) is located in proximity to the site.

5.4. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a NIS in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:

The likely effects on the environment.

The likely consequences for the proper planning and sustainable development of the area.

The likely significant effects on a European site.

5.5. **Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010).** This guidance is intended to assist and guide planning authorities in the application of articles 6(3) and 6(4) of the Habitats Directive as it relates to their roles, functions, and responsibilities in undertaking AA of plans and projects. It applies to plans and projects for which public authorities receive an

application for consent, and to plans or projects which a public authority wishes to undertake or adopt.

5.6. National Planning Guidelines

- Architectural Heritage Protection Guidelines. Refers to the main features of the Planning and Development Act 2000, as amended and to the requirement for planning authorities (PA) to create a record of protected structures and to the responsibilities given to owners to maintain them and the additional powers given to PA's to ensure that protected structures are not endangered.
- Design Manual for Urban Roads and Streets

5.7. National Planning Framework

- 5.7.1. National Strategic Outcome 2 Enhanced Regional Accessibility, Inter-Urban Roads seeks to maintain the strategic capacity and safety of the national roads network including planning for future capacity enhancements.

5.8. Regional Spatial & Economic Strategy - Southern Region

- 5.8.1. The RSES for the southern region was adopted in January 2020 and provides a long-term, strategic development framework for the future physical, economic and social development of the Southern Region. Section 6.3.3.1 The Role of Transport in Transport investment in the Region aims to protect the strategic capacity and safety of the Region's transport network, meet the safe travel requirements of all people, and provide for the safe and most efficient movement of people and goods.

5.9. Tipperary County Development Plan 2022-2028

- 5.9.1. The relevant provisions of the plan are set out below:
- Templemore is a District town in the County Settlement Hierarchy.
 - The CDP outlines the current Town Development Plans will remain applicable until they are replaced. The applicable plan is the Templemore and Environs Development Plan 2012 (as extended).
 - Strategic Objective 7 seeks 'To protect, enhance and connect areas of natural heritage, blue and green infrastructure and waterbodies, for quality of life,

biodiversity, species and habitats, while having regard to climate change adaptation and flood risk management measures’.

- Chapter 11.0 Environment and Natural Assets includes Policy 11-4 which seeks to ‘(a) Conserve, protect and enhance areas of local biodiversity value, habitats, ecosystems and ecological corridors, in both urban and rural areas, including rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands in accordance with the objectives of the National Biodiversity Plan (DCHG 2017) and any review thereof. (b) Safeguard, enhance and protect water bodies (rivers/canals/lakes) and river walks and to provide links, where possible, to wider green infrastructure networks as an essential part of the design process’.
- Policy 11-7 aims to ‘a) Ensure the protection of water quality in accordance with the EU WFD..’.
- Strategic Objective 9 seeks ‘To enhance connectivity and promote sustainable transport, through the integration of land-use and transport planning and promotion of and prioritisation of public transport and walking and cycling’.
- Strategic Objective 10 seeks ‘To protect existing infrastructural assets and utilities, and the strategic function of the existing national road and rail network, and associated junctions and support investment in strategic infrastructure both at the county, and the regional level thereby ensuring Tipperary’s access to key services for economic growth and resilience’.
- Policy 12-4 seeks to ‘Maintain and protect the safety, capacity and efficiency of Tipperary’s roads network and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012)’.

- Chapter 12 Sustainable Transport in Table 12.2 Sustainable Transport Framework Outcomes for Tipperary, Key Outcomes for Walking include ‘enhanced public realm supporting safer and more efficient pedestrian movement over that of the private car’.
- Objective 12-G states ‘Council own development, such as public realm upgrading and regeneration programmes, seek to encourage the following principles;
 - (a) Implement improvements to facilitate pedestrians and cyclists and to improve access for people with mobility needs.
 - (b) Support the ‘10-minute towns’ concept and active travel projects.
 - (d) To consider how existing and proposed transport services may be supported and facilitated through the spatial planning process’.
- In Chapter 7.0 Town Centres & Place-making, key aspects of place-making to support development include ‘To support and facilitate a collaborative approach to the regeneration and revitalisation of our towns to create town centres that function as viable, vibrant and attractive locations for people to live, work and visit, while also functioning as service...hubs for the local community’.
- Strategic Objective 3 seeks ‘To support the implementation of the County Settlement Hierarchy, in regenerating our towns and villages, creating vibrant town centres, attracting new residents and delivering quality residential neighbourhoods’.
- Strategic Objective 5 seeks ‘To promote, support and enable sustainable and diverse economic development, and foster new and innovative opportunities, harnessing the talent of our workforce and communities’.
- Policy 11-1 outlines ‘In assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health. In line with the provisions of Article

6(3) and Article 6 (4) of the Habitats Directive, no plans, programmes, etc. or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects⁵⁹).

- Policy 11-2 seeks to 'Ensure the protection, integrity and conservation of European Sites and Annex I and II species listed in EU Directives. Where it is determined that a development may individually, or cumulatively, impact on the integrity of European sites, the Council will require planning applications to be accompanied by a NIS in accordance with the Habitats Directive and transposing Regulations, 'Appropriate Assessment of Plans and Projects, Guidelines for Planning Authorities', (DEHLG 2009) or any amendment thereof and relevant Environmental Protection Agency (EPA) and European Commission guidance documents'.
- Policy 13-1 seeks to 'Encourage and support the sympathetic restoration, re-use and maintenance of protected structures thereby ensuring their conservation and protection. In considering proposals for development, the Council will have regard to the Architectural Heritage Protection Guidelines for Planning Authorities, (DAHG 2011) or any amendment thereof, and proposals that will have an unacceptable impact on the character and integrity of a protected structure or adjoining protected structure will not be permitted'.
- Policy 13-2 seeks to 'Encourage and support new development that contributes to the enhancement of ACAs with regard to; a) Impact on the character, appearance and integrity of the ACA in terms of compatibility in design, colour, finishes and massing of form; b) Impact on the existing amenities, character and heritage of the ACA; c) The importance of retaining

important architectural and townscape elements such as shopfronts, sash windows, gutters and down pipes, plasterwork etc as appropriate’.

5.10. Templemore and Environs Development Plan 2012 (as extended).

- 5.10.1. The site is located within the town of Templemore and is within public road carriageways and watercourse, and is also zoned town centre, amenity, existing residential, agricultural.
- 5.10.2. The site includes for an abandoned section (approximately 805 metres) of the River Mall, which is no longer a functioning watercourse following the Mall River (Templemore) Flood Relief Scheme and diversion works carried out by the OPW in 2021.
- 5.10.3. Objective WS10 Flood Relief Measures outlines ‘It is an objective of the Council to co-operate with the OPW and seek the implementation of the flood relief measures which will serve to protect the town for potential flood events....’.
- 5.10.4. Objective WS7 Water Framework Directive / River Basin Management Plan outline ‘It is an objective of the Council to implement the the South Eastern River Management Plan by seeking to achieve, subject to resources, the water quality targets set out under the plan’.
- 5.10.5. Strategic Objective 6 seeks ‘To ensure that the water quality of the River Suir and its tributaries, groundwater and public sources of drinking water are improved and protected from pollution’.
- 5.10.6. The site includes for 2 no. Protected Structures (TMS73 O’Dwyer Bridge, TMS89 Small bridge) and is adjacent the Protected Structure TMS41 Ryan’s Xpress Stop. Part of the development site is located in Architectural Conservation Area 1: Main Street/Patrick’s Street, which outlines ‘This ACA derives its strength and character from a number of elements notably the 19th Century Victorian Streetscape of the Main Street and the underlying local history. This area possesses a period townscape and features of a high quality and architectural integrity that is unique to the town’.

- 5.10.7. Strategic Objective 7 seeks 'To conserve and enhance the built heritage of the Templemore Town to adopt a positive approach towards development to enhance, preserve, re-use or increase the accessibility of such features'.
- 5.10.8. Strategic Objective 9 seeks 'To protect and support strategic infrastructure in the town including the national road network and the Railway Station and to promote sustainable transport patterns in accordance with Smarter Travel – a Sustainable Transport Future: a new Transport Policy for Ireland 2009-2020'.
- 5.10.9. Strategic Objective 4 seeks 'To regenerate the Town Centre of Templemore, to ensure it is a centre which is viable and vibrant by enhancing and promoting retail, business and other service provision'.
- 5.10.10. Chapter 3 Core Strategy in Town Centre Strategy states 'The town centre of Templemore is the core hub of commercial activity, providing a range of key services not only to serve the town itself but also its rural hinterland'.
- 5.10.11. Policy BH1 Architectural Conservation Areas outlines 'It is the policy of the Council to ensure the conservation and enhancement of the Architectural Conservation Areas. The Council in assessing proposals for re-development will have regard to:
a) the impact of the proposed development on the character and appearance of the Architectural Conservation Area in terms of compatibility of design, colour and finishes, and massing of built form; b) the impact of the proposed development on the existing amenities, character and heritage of these areas; and c) the need to retain important architectural and townscape elements, such as shop fronts, sash windows, gutters, down pipes, decorative plasterwork etc'.
- 5.10.12. Policy BH3 Protected Structures states 'It is the policy of the Council to encourage the sympathetic re-use/rehabilitation of protected structures. The Councils will require that significant proposals for redevelopment of protected structures or developments, within the curtilage of protected structures, are accompanied by an Architectural Impact Statement and will require that development proposals ensure the protection of essential architectural features which contribute to its character'.
- 5.10.13. Policy AM3 Public Realm Plan states 'It is the policy of the Council, subject to resources and through partnership with the community, to support the implementation of the improvement initiatives identified in the Public Realm Plan'.

- 5.10.14. Section 7.7 outlines 'The plan sets out suggested proposals, which build upon these existing assets with the aim of improving the vitality of the town centre and attracting further investment. It is envisaged that such projects/initiatives could provide a context for improved business and retail opportunities, while improving access/permeability to the town park and alternative amenity areas, for the betterment of locals and visitors alike'.
- 5.10.15. A public realm plan is set out in Appendix 3. Section 3.2 Access & Circulation outlines 'The town centre would benefit from greater priority should be given to pedestrians. This will improve the place function of the town centre, creating a safer environment for pedestrians. The width of existing footpaths is sufficient for Templemore'.
- 5.10.16. Policy AM5 Approach Roads states 'It is the policy of the Council to seek to ensure visual improvements along approach roads to the town as part of new developments and re-development of existing development'.
- 5.10.17. The public realm plan outlines 'The Dunkerrin Road approach road is bounded to the east by a grass verge bordering the Town Park and the west by the mall river edged by a low stone wall and pedestrian footpath. The mature trees and vegetation and an absence of development along this route makes for a scenic, pastoral gateway to Templemore town'. Section 4.7 includes for Approach Road Improvements, with suggested proposals for visual enhancement of approach roads. It is outlined 'The individual character and setting of each approach road must be taken into account to ensure that improvements and development maintain the individual qualities of the approach, such as the pastoral character of the Dunkerrin gateway'.
- 5.10.18. Policy NH1 Natura 2000 Site outlines 'It is the policy of the Council to ensure that developments are not permitted which would adversely impact on the conservation and integrity of designated or candidate Special Areas of Conservation or Special Protection Areas'.

6.0 Consultations

- 6.1. The application was circulated to the following bodies:

- Department of Housing, Local Government and Heritage
- Uisce Eireann
- Arts Council
- HSE
- The Heritage Council
- Fáilte Ireland
- An Taisce

Responses were received from the following:

6.1.1. Department of Housing, Local Government and Heritage

6.1.2. The submitted report sets out heritage related observations/recommendations under the headings of Archaeology and Nature Conservation. The report is summarised as follows:

Archaeology

- The Department has reviewed the Archaeological Impact Assessment by IAC Ltd (January 2024) and is broadly in agreement with the findings in relation to Archaeology and Cultural Heritage as set out. Recommends conditions to include:
- Mitigation measures set out in AIA Report shall be implemented in full
- Developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, ground works, and/or the implementation of agreed preservation in-situ measures. Should archaeological remains be identified during monitoring works shall cease pending decision of PA in consultation with Department regarding mitigation. PA and Department shall be furnished with archaeological report.

- Construction Environment Management Plan (CEMP) shall include location of archaeological/cultural heritage constraints in AIA Report and investigations, describe impacts and include mitigation measures.

Nature Conservation

- Acknowledges existing channel presents some challenges for Council in terms of public use and how its managed, however it is existing linear wetland spanning over approximately 3000m², located in an urban area offering some natural habitat and biodiversity in otherwise biodiversity poor urban location, providing habitat for aquatic species and animals. Importantly it is in effect a natural treatment system or Sustainable Urban Drainage System for effluent deriving from various 26 known outfalls entering it and from surface water drainage from roads and other infrastructure. Referral is made to NIS (p 12) to “low water quality due to an ongoing discharge of raw sewerage”, and Department outlines these waters are likely rich in harmful pollutants, including chemicals derived from vehicles on adjacent roads, which could be harmful to downstream habitats including the downstream hydrologically connected River Suir SAC (site code 002137). Watercourse as stands acts a buffer somewhat slowing down the transport of potentially pollutant laden waters allowing evaporation, settlement and absorption of chemicals and sediment that would otherwise be transported quickly and deposited abruptly at a point source into the Mall River upstream of the SAC. It is outlined far from being a negative thing as identified by TCC, ecologically the accumulation of water in the old channel is a good thing, providing some protection to habitats downstream and is very similar in function to SUDS or nature based solutions being developed at cost elsewhere, with comparatively minor works on the channel could further enhance existing SUDS capabilities.
- It is outlined anti-social and water quality issues with stormwater/effluent contamination entering the channel should be dealt with at source in accordance with legislation rather than concealed in a pipe underground to discharge in greater concentration upstream of the SAC, and viewed more advantageous to have waters visible to monitor potential pollution in future and facilitate intervention if required. It is outlined climate change may exacerbate potential impacts downstream with contaminants potentially

released in pulse during heavy rainfall events after dry periods and wetlands buffer against such sudden discharges while a piped point discharge will not.

- It is outlined if it is not considered possible/reasonable to retain the channel, it is suggested the construction of an artificial wetland equal in extent be constructed to take the discharge from the proposed new pipe before the point where it would discharge to the River Mall, which would fulfil similar functions and protect downstream water quality and provide some biodiverse habitat. This could be landscaped to enhance the area while simultaneously buffering the Mall River and downstream SAC from adverse water quality impacts. It is suggested the size of any constructed water attenuation area be at least similar in size to that of the existing open drainage channel. It is outlined to avoid confusion, the Department does not consider any engineered underground attenuation tank would fulfil the same roles/offer the same protection to downstream habitats as a wetland.
- It is outlined Objective 3 of Ireland 4th National Biodiversity Action Plan 2023-2030 includes Action number 3C1 that “All Public Authorities and private sector bodies move towards no net loss of biodiversity through strategies, planning, mitigation measures, appropriate offsetting and/or investment in Blue-Green infrastructure”, and the existing channel while problematic for the Council in some respects, is an ecological asset in others and is part of the Blue-Green infrastructure referred to in the plan. Any removal of it should either be prevented or compensated for by alternative Blue infrastructure.

6.1.3. Uisce Eireann

- It is outlined there appears to be several UE assets that cross the old river bed including watermains in the river bed adjacent to both bridges as well as a 225mm combined sewer. UE cannot support any proposals that may have the potential to impact on assets without detailed information to provide evidence no impacts to assets will arise. It is outlined TCC will need to establish the exact locations of UE assets through site investigations and designs for associated diversion and/or protection measures will need to be agreed in advance of UE supporting proposals.

- It is likely that proposed works may involve infilling near/over UE infrastructure in multiple locations and in order to assess the feasibility of infilling near/over the public water/wastewater infrastructure applicant is required to engage with UE Diversion Team by submitting further information to include a Diversion and Build-Over Enquiry in order to assess potential interactions with infrastructure, and outcomes of the Diversion Application and/or Building-Over or Near Application is to be submitted to the PA as a response to further information request.

6.2. Public Submissions/Observations:

6.2.1. A total of 5 no. observations were received. The issues raised are summarised below:

6.2.2. Eamon Bulter

- Concerns raised on parking measures proposed for Patrick Street, with TCC representatives not discussing proposed prohibiting of parking along street with property owners
- Patrick Steet has seen a reduction in businesses over last number of years. Flood alleviation scheme put in place to protect existing business and keep them viable, proposed parking restrictions will result in further business closures.
- Owns pub and takeaway on street and proposed parking measures will result in no available parking for customers and result in delivery issues.
- Alternative less restrictive parking measures could be considered to enable existing businesses remain open and viable

6.2.3. Carmine and Susan Iannelli

- Are owners of no.2 and no.3 (Ninos Takeaway) Patrick Street, and have concerns with proposed widening of footpath at 1-3 Patrick Street, with existing footpath width more than adequate to meet all pedestrian traffic needs.

- Proposed footpath will serve to only take up parking spaces which are needed by customers who will be forced to park away from businesses, with risk they will change shopping habits and transfer business elsewhere
- Business needs to be supported in Templemore and proposal will be detrimental to business
- Accessibility to premises by customers and suppliers will be inhibited, will inhibit business and make servicing more difficult
- There is no positive (commercial or aesthetic) impact and development is unsuitable
- Businesses in area for sale and clear area is not attractive to new business, with proposed development dissuading potential buyers of property for sale

6.2.4. Peter Kennedy

- OPW drainage works are adding to flooding problem in town, with flooding occurring in 2023, as it increases volume and speed of water coming into area from Killea, Devils Bit area
- Volume 2 - River Mall (Templemore) Drainage Scheme EIS on gov.ie reveals 'The Constraints Study Report for the River Deel (Crossmolina) from 2012', with River Deel not flowing through Templemore. No legal/lawful decision can or could be made without the complete EIS for the OPW flood relief scheme been taken into consideration or could comprehensive objection/submission be made without it being publicly available.
- Prior to OPW flood relief scheme a proposed housing scheme and shopping centre did not proceed at Blackcastle, following advice of Tobin Engineers to clients they would be liable to third party appellants, with site located on flood plain. EIS for flood scheme completed by Tobin Consulting and there is a conflict of interest. Appears purpose of proposed development is to drain this land that is a flood plain now owned by the Council. Solution would be to create an additional lake to cater for additional water which would be a more cost effective solution.
- Outlines people in Templemore dealing with failed flood relief project, highlights impacts of activities on soil, and that an up to date EIS taking into

account negative consequences of the flood relief scheme is required. Nature Restoration Law would need to be considered before any planning could be considered in Templemore at foot of Devils Bit especially the rewetting element of drained land

- Flooding will increase as future town drainage schemes of this design are implemented, and it will put more pressure downstream as designs increase flow and volume of water
- Fifty yards of the river boundary wall fell into the river at the Dunkerrin Road and additional unnecessary damage to the environment was not investigated to ascertain level of damage
- The proposed scheme has commenced as portion of river has been filled in beside Youngs Garage on Dunkerrin Road without planning permission. Retention of this illegal development has not been applied for in application.
- Outlined as owner of land at the Mall/Manna South which comprises the old river which is still flowing and not dry and will always be flowing as millrace from Patrick Street flows into it, and contains a thriving natural diverse eco system that will be destroyed by filling in and is not necessary and a waste of money.
- Preferred method proposed by Minister of the Environment is to use natural methods to reduce water speed and flow by retaining it at source.
- Outlined not clear what is chosen plan of three presented to observer to be submitted to ABP
- When damage is caused, as in this case, it is clear environmental assessment carried out were inadequate, with high court ruled in Derrybrien case when EIP fails they do not have planning for their development.
- In relation to construct of new agricultural entrance 180m south of O'Dwyers Bridge on western side of Mall Road, Templemore Motors was refused permission for vehicle access by TCC, and who are now proposing to put in vehicular access by calling it agricultural. Observer outlines Templemore Motors do not own the river and it has been adjudicated by Commission of

Public Works that river to O'Dwyers Bridge is observers property and they do not have consent.

- Exhibits attached include photos of local flooding, OPW and TCC correspondence, media report, mapping, politician newsletter.

6.2.5. Cathryn and Michael Ryan

- Concerns raised in relation to expansion of footpath and removal of extant on street parking on business at No.1 Patrick Street, Gala Express, Ryans Convenience Store, lack of access will drive customers to other retail locations
- Little consideration of wider economic impact of proposed development in application documents, robust assessment of commercial land uses and viability along Patrick Street not undertaken
- Applicant has not had cognisance to design responses as outlined in Section 4.9 of DMURS tailored to on street parking on arterial and link streets
- Refute findings of EIS Screening Report which state (5.2.1, 5.2.5) 'the streetscape improvement works will improve traffic sight lines in the area and local access', and businesses and residents will receive a net positive impact from the proposed works: 'as they will obtain more land for their gardens, driveways or businesses'. Outline removal of onstreet car parking at Partick Street/The Mall will impact on customers and suppliers and there is no improvement on public access to premises arising.
- EIS states future public parking will be via the Town Parks car park or from the Main Street, and is considered neither feasible nor practical for suppliers or customers.
- No discernible consideration provided to Patrick Street Retail functions
- Given capital costs associated with proposed works is essential all alternatives are appropriately considered and assessed, with commercial units heavily dependent on passing trade and reliant on on-street car parking.
- Town Centre First policy notes that maintaining and supporting a town centre is difficult as when established retail offering closes down, appearance and

character of a town centre goes into decline, and support needed to ensure continuance of existing retail offering at this location

- Architectural Heritage Assessment has not assessed Protected Structures along Partick Street including No.1 Patrick Street (ref. TMS41). Any development proposal within the curtilage of a protected structure is required to assess impacts arising in accordance with Policy BH3 of the Templemore and Environs Plan.
- Construction phase impacts will deter customer interactions with commercial store, and although stated as temporary in duration, the construction timetable cannot be guaranteed to be of short term duration.
- Construction vehicle movements and lane closures to facilitate works will have a net result of business closure if access and parking cannot be provided for customers
- Roscrea Town Centre First Report (June 2023) of relevance to Templemore area being a similar market town characteristic, plan has provided for 'parking priority' areas within a defined movement strategy for town centre, plan states that on street car parking will support adjacent business activities and can accommodate loading activities
- Proposal is non compliant with proper planning and sustainable development of the area and would impair retail function of No.1 Patrick Street

6.2.6. Young Family

- Concerns raised in relation impacts on commercial function of Patrick Street/Blackcastle Road, including No.25 Patrick Street (Youngs Showroom), No.22 Patrick Street (Youngs Garage Tyre and Puncture Repair Department), No.21 Patrick Street (Youngs Garage Office including petrol pumps fronting Patrick Street), No.20 Youngs Garage Parts Department), and Youngs Garage Workshop and Young Recovery Operations on Dunkerrin/Blackcastle Road.
- Application red line boundary extends into registered landholdings, no consent requested and none has been afforded the design team

- Outlined economic viability of Young Family lands will be negatively impacted through denigration of extent customer parking and access opportunities, narrowing of carriageway and widening of footpaths
- Consultation was not supplemented with mapping, being an informal and verbal interaction only
- No reasonable basis in EIS Screening Report to state the business will benefit from additional lands following redevelopment, lands proposed for tarmacadam fill along Blackcastle Road will not compensate for reduced on street car parking and as integrated with pedestrian pathways, have not been demonstrated to adequately provide for safe manoeuvres of recovery vehicles associated with garage operations, the certification of EIS Screening Report of a lack of negative impact arising is refuted
- Application documents do not indicate a robust assessment of commercial land uses along site area roadways and importance of maintaining commercial function of town in accordance with local planning policy, with commercial operations a key element of local economy
- Commercial viability will be hampered by loss of on street parking with customers required to find parking in Town Park car park or Main Street and walk approx.10 minutes to consult with staff, with patrons likely to move to other garages with associated ease of access. Commercial losses have direct impact on human beings in ability to secure employment
- Strategic Objective 4 of TEDP and Strategic Policies SO3 and SO5 of CDP support commercial economic functions of Templemore and provide supports to maintain and enhance town centres and proposal cannot be supported as compliant with proper planning and sustainable development
- Highlights significance of policy BH1 (ACA protections), public realm provisions and approach road provisions for Dunkerrin Road in TEDP
- Highlights relevance of Strategic Objective 10 of CDP To protect existing infrastructural assets and utilities, and the strategic function of the existing national road and rail network, and associated junctions and support investment in strategic infrastructure both at the county, and the regional level

thereby ensuring Tipperary's access to key services for economic growth and resilience

- With reference to requirements of DMURS to ensure compliant proposals to address street edge, historic consideration and on street parking provisions, negative impacts are likely to arise on lands (No.20-22 & 25 Patrick Street) including on public 'opening up' of streetscape area north of O'Dywers Bridge directly addressing Young Showroom Garage at no.25 Partick Street and potential for anti-social behaviour/security concerns.
- In relation to Road Safety Audit noting of parking fronting No.25 and visibility impact of this on proposed new footway, while agree with recommendation of Audit that Design Team should ensure adequate visibility is provided at junction, parking space is within Young ownership folio and design team do not have consent for any works and removal of on street parking is unsupported.
- Submitted drawings have failed to consider infrastructure surrounding 2 no. extant fuel pumps a feature of No.21 for over 80 years contributing to local and historical area character. Widening of footpaths and removal of on street car parking will negatively impact on established use, with no assessment of underground pump lines or loss of vehicular access to pumps, and DMURS require cognisance to street furniture and historic features
- In relation to works impacting on Blackcastle Road and Youngs Garage, on street car parking is a feature of the road and commercial necessity, and eastern road access and parking provision not supported
- Reduction of Blackcastle Road carriageway width and addition of footway on both sides of road will create difficulty for access/egress of established commercial land uses
- Demolition of commercial access to Youngs Garage on Blackcastle Road not materially reviewed as part of Audit. Proposed infill and public access to this area will hinder safe access/egress to extent commercial operation, reduce on street parking required by recovery vehicles

- Assertion of design team that provision of a tarmacadam finish to mall infill works at this interface will provide additional lands for the business, is outlined in submission usable commercial space is null as use will not provide for ease of parking of HGVs due to introduction of pedestrian pathway 'behind the stone wall', and pedestrian and vehicular road safety cannot be guaranteed with continuance of commercial operations.
- Safeguards should be conditioned to ensure adequate protection is given to properties adjoining the route works with regard to noise, vibration and dust emissions
- Considerations to minimise disruption to commercial operations not afforded in CEMP, which are dependent on vehicular ease of access
- Clarification required on content of submitted DMURS Street Design Audit references to the Athboy Town Centre Project
- Concern that water originating from Town Park lake flows underground via river channel towards Dunkerrin Road mill race, and to the rear gardens of properties on Patrick Street, and design team requested to consider likely impacts arising from proposed infilling of river channel and the necessary pipe work required to ensure appropriate mitigation
- Application does not include analysis of options and alternatives in final proposed design, and preferred option include replacement of footway on western edge only of Blackcastle/Dunkerrin Road and creation of pedestrian crossing path/signalised junction lights to address N62/Blackcastle Road junction, with potential result a reduction of costs and would not materially impact on infill works
- Transformation of Mall to one-way traffic system would have merit for traffic congestion reduction
- Review of alternatives to current carriageway width realignment along Partick Street suggested in order to protect on street parking facilities
- Proposal is non compliant with the proper and sustainable development of the area, would permit a significant negative impact on Young commercial operations and impact on commercial offering and local economy

- Appendix includes client correspondence and holding mapping

7.0 Assessment

7.1. The likely consequences for the proper planning and sustainable development of the area:

- 7.1.1. The proposed development includes for a redundant channel infill project which also includes for a road improvement scheme.
- 7.1.2. In relation to the redundant channel infill project, the policies of the current Tipperary County Development Plan identify Templemore as a District Town. Strategic Objective 7 of the Plan seeks 'To protect, enhance and connect areas of natural heritage, blue and green infrastructure and waterbodies, for quality of life, biodiversity, species and habitats, while having regard to climate change adaptation and flood risk management measures'. Policy 11-4 of the Plan seeks to '(a) Conserve, protect and enhance areas of local biodiversity value, habitats, ecosystems and ecological corridors, in both urban and rural areas, including rivers,... streams..and other wetland habitats, hedgerows, tree lines...in accordance with the objectives of the National Biodiversity Plan (DCHG 2017) and any review thereof'. Policy 11-7 of the Plan aims to 'a) Ensure the protection of water quality in accordance with the EU WFD....'. The Mall River discharges to the Lower River Suir SAC, which is afforded protection under the natural heritage policies of the plan.
- 7.1.3. In the Templemore and Environs Development Plan 2012 (as extended) the site is zoned town centre, amenity, existing residential, and agricultural. The current sites use is redundant watercourse, wetland, public road, bridge, footpaths.
- 7.1.4. Objective WS10 Flood Relief Measures in the TEDP outlines 'It is an objective of the Council to co-operate with the OPW and seek the implementation of the flood relief measures which will serve to protect the town for potential flood events....'.
- 7.1.5. The site includes for an abandoned section (approximately 805 metres) of the River Mall, which stated in the application documentation is no longer a functioning watercourse following the Mall River (Templemore) Flood Relief Scheme and diversion works carried out by the OPW in 2021 (I note the Gov.ie website outlines it

is anticipated that substantial completion for the Flood Relief Scheme will be achieved prior to the end of 2024). It is further stated there are 26 surface water outfalls and existing drains currently flowing into this redundant channel and it is outlined in the submitted EIS Screening Report the old channel presents a health and safety risk as well as potential pollution and anti-social behaviour risk.

- 7.1.6. Given the condition of the existing redundant watercourse and wetland and following my site inspection, I consider that the proposed infill development while seeking to potentially address management and use issues, would be consistent with the relevant provisions of the CDP including Policy 11-4 which seeks to protect and enhance areas of local biodiversity value in accordance with the objectives of the National Biodiversity Plan (DCHG 2017) and any review thereof. I note the submission of the Department of Housing, Local Government and Heritage wherein it is outlined Objective 3 of Ireland 4th National Biodiversity Action Plan 2023-2030 includes Action number 3C1 that “All Public Authorities and private sector bodies move towards no net loss of biodiversity through strategies, planning, mitigation measures, appropriate offsetting and/or investment in Blue-Green infrastructure”. The Department outline the existing channel which is a wetland, is an ecological asset and is part of Blue-Green infrastructure and removal of it should either be prevented or compensated for by alternative Blue infrastructure.
- 7.1.7. While I note the above, the Templemore flood relief scheme approved in 2017 made provision for the diversion of the Mall River and a new river section to the west of the old existing channel. As the new section of the channel now functions as a river and ecological corridor, I consider it forms alternate Blue infrastructure to the existing old channel and is a biodiversity and ecological asset of value within the local urban context. On this basis I consider the proposal is consistent with CDP and local policy and the National Biodiversity Action Plan.
- 7.1.8. In relation to the road improvement proposal, the NPF National Strategic Outcome 2 Enhanced Regional Accessibility, Inter-Urban Roads seeks to maintain the strategic capacity and safety of the national roads network. Section 6.3.3.1 The Role of Transport in Transport investment in the Region in the RSES aims to protect the strategic capacity and safety of the Region’s transport network, meet the safe travel requirements of all people, and provide for the safe and most efficient movement of people and goods. Strategic Objective 9 of the CDP seeks to enhance connectivity

and promote sustainable transport, with Strategic Objective 10 of the CDP seeking to protect existing infrastructural assets and the strategic function of the existing national road network and associated junctions. Policy 12-4 aims to 'Maintain and protect the safety, capacity and efficiency of Tipperary's roads network and associated junctions..'. Strategic Objective 9 of the TEDP aims to 'To protect and support strategic infrastructure in the town including the national road network'.

- 7.1.9. In terms of the public realm, Policy Objective 12-G of the CDP seeks to encourage the implementation of improvements to facilitate pedestrians and improve access for people with mobility needs, with the public realm plan in the TEDP outlining for access and circulation 'the town centre would benefit from greater priority should be given to pedestrians'.
- 7.1.10. The existing bridges (O'Dwyer Bridge, Small Bridge) forming part of the proposal are identified in the TEDP as Protected Structures (TMS73, TMS89) and policies of the CDP (Policy 13-1) and TEDP (BH3) afford protection to such structures. Under Section 58 of the Planning and Development Act, 2000 as amended, the owner of the bridge, the applicant /Tipperary County Council is obliged to ensure that the structure is not endangered. I note the TEDP identifies Dunkerrin Road as an Approach Road, with Policy AM5 Approach Roads seeking to ensure visual improvements along approach roads to the town as part of new developments and re-development of existing development.
- 7.1.11. The proposed development involves the removal of a parapet wall and parapet wall section at O'Dwyer Bridge on the N62 and the infilling of the channel would bury both O'Dwyer Bridge and Small Bridge up to ground level. O'Dwyer Bridge located within an ACA was built in 1850 and carries Patrick Street over the river and is a single span bridge with segmental arch with ashlar voussoirs and limestone rubble parapet walls with plaque to north parapet, which has been recently restored. The Architectural Heritage Assessment carried out by Irish Archaeological Consultancy Ltd outlines the greater part of the northern parapet has been rebuilt with fresh stone, and at the eastern end of the parapet a small section of earlier wall remains. It is outlined coping stones are reused from the original parapet. It is stated the southern parapet is similar to the northern side, with stonework of a later date in the main with coping stones used from the original parapet. At the base of the parapet on side away from the road, the finish is similar to that on the sides of the coping

stones and it is outlined it seems probable that this represents the original nature of the parapet prior to its construction.

- 7.1.12. Small Bridge carries Church Avenue over the river and entails a single span arch road bridge with rebuilt rubble limestone parapet walls with ashlar limestone voussoirs and plaque to north-west parapet. The report submitted outlines it is possible the parapets were rebuilt in 1930, with the bridge built c.1811.
- 7.1.13. To facilitate works including widening of the carriageway crossing at O'Dywers Bridge, new footway, increased corner radius and increased sightlines, the proposal will involve the removal and demolition of the northern parapet, and removal of a section of the southern parapet with a new wall to be erected, curving at a larger radius around the corner between the bridge and the Mall. It is outlined in the submitted report the parapets are not original. While the parapet walls of Small Bridge will be retained, both bridges will be concealed from view by way of infilling. The report outlines prior to works, mitigation would include a photographic and written description of the bridges being prepared, and include for their examination.
- 7.1.14. Given the siting of existing O'Dwyer Bridge at the N62 as described in the application and following my site inspection, while I acknowledge that the proposed development would improve the national road network at this location from a safety perspective and accord with public realm policy in the CDP, I consider the proposed development by way of the demolition of a parapet and section of parapet of a protected structure and the concealment of protected bridges structures, would however adversely affect the character and setting of these structures, and would be inconsistent with the built heritage provisions in the CDP and TEDP, and the statutory requirement to ensure the protection of listed structures.
- 7.1.15. As set out in Section 7.3 - 7.13 of this inspectors report the proposed development would also not be consistent with Policy 11-1 of the CDP in that the proposed development is not compliant with the EU environmental directive in relation to the protection of designated sites.
- 7.1.16. As set out in Section 7.2 of this inspectors report the proposed development would also not be consistent with Policy 11-2 of the CDP which seeks to ensure the protection, integrity and conservation of European Sites and Annex II species listed in EU Directives.

- 7.1.17. A number of observations outline the proposal would not accord with proper planning and sustainable development nor align with strategic policies and objectives of the CDP (Strategic Objectives 3 & 5) and TEDP (Strategic Objective 4) in relation to supporting the commercial economic functions of Templemore, which relates to loss of on-street customer parking, loading areas, and impacts on access requirements to services. I consider subject to alterations, which could be addressed by way of condition should the Board be minded to grant permission, the proposal would be consistent with and support the relevant provisions of the CDP and TEDP, and this is further addressed in the Environment Section of this report.
- 7.1.18. Based on a number of observers submissions it appears there is some dispute with regard to the ownership of areas of the site. This is essentially a civil matter and I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: "A person shall not be entitled solely by reason of a permission under this section to carry out any development".
- 7.1.19. I also note that concerns are raised in a submission in relation to the proposed scheme commencing without planning permission. While I note that an area of the river within the site appears to have been filled in adjacent to the Dunkerrin Road, I consider that any issues relating to unauthorised development being carried out at this site location are a matter for the planning authority.
- 7.1.20. Having regard to the foregoing, I consider that the proposed development would not be consistent with the relevant planning framework and would not accord with the proper planning and sustainable development of the area.
- 7.1.21. In relation to procedural matters, a submission outlines that the complete EIS for the OPW flood relief scheme is not available on gov.ie, and no legal decision can be made without it being taken into account nor does it enable a comprehensive submission to be made. While I note the complete EIS is not available on the gov.ie website, I consider that sufficient information has been submitted to enable for an assessment of the proposal.

7.2. The likely effects on the environment

- 7.2.1. The proposed development includes for a redundant channel infill project which also includes for a road improvement scheme. Details of the proposed development are

set out in Section 3.0 of this report, and includes for the construction of a 900mm drainage header pipe in the existing redundant channel section of the River Mall, provision for the connection of 26 existing surface water outfalls, currently discharging to the redundant channel section of the River Mall, to the 900mm drainage header pipe along with all accommodation works, and the infilling of the redundant channel section, including pipe surround of the 900mm drainage header pipe, to match existing ground elevations surrounding the river channel. The proposed development also includes for pedestrian footpaths, footways, hardstanding areas, removal and demolition of walls and parapets, provision of improvement works, widening of carriageway, construction of stone wall, streetscape works, landscape works, demolition of existing bridge structures at residential accesses, construction of a discharge headwalls, and a new agricultural entrance. The proposed site compound will be located at Talavera and the Town Park car park may also be used as a compound. Works are scheduled to last for approx.24 weeks.

- 7.2.2. Aspects of the proposed development that could have effects on the environment are addressed in this section of the inspector's report. The impact of the proposed development on European Site (s) is specifically considered in section 7.3 – 7.13.
- 7.2.3. In relation to **Population and Human Health**, there is a potential for impacts to arise on residential amenity as a result of the proposed development. Having regard to the proximity of the proposed development to existing residential development, with residential properties located adjacent the site, I consider there is the potential for environmental impacts to arise during construction including potential pollution events, increased traffic, noise and disturbance, dust, nuisance. I also note concerns have been raised in submissions in relation to the impact of the construction stage on existing businesses. A Construction Environment Management Plan (CEMP) has been submitted and the contractor will be required to have regard to BS 5228-1:2009+A1 2014 Code of Practice for noise and vibration control on construction and open sites, with measures to be implemented for the control of noise from construction works. The CEMP also includes for dust mitigation measures. The CEMP outlines a Traffic Management Plan is to be prepared. Lane closures will be required with a potential full closure of the Mall Road to the south of O'Dwyers Bridge, with access to properties and business being maintained throughout the construction period. Having regard to the nature of the works and

relatively limited construction duration, I do not consider that significant adverse effects by way of noise, traffic, and nuisance are likely to arise on the amenities of the area or businesses during the construction phase subject to the mitigation measures set out in the CEMP and the implementation of a Traffic Management Plan.

- 7.2.4. In relation to **Biodiversity**, A Preliminary Examination and EIA Screening Report, CEMP and Natura Impact Statement have been submitted. The NIS states several ecological surveys have been undertaken at, and in the vicinity of, the proposed development, associated with the Office of Public Works (OPW) River Mall (Templemore) Flood Relief Scheme. I note it is outlined the central portal for government services and information (gov.ie) avails to all relevant documentation (e.g., EIS) associated with this OPW scheme, including ecological surveys. However, I also note all the relevant documentation has not been identified on the website.
- 7.2.5. It is outlined in the EIA Screening report there are no botanical species of interest recorded in the area. While I note that details of the existing up to date habitat baseline have not been set out, the NIS includes for Chapter 6 (Terrestrial Ecology) and Chapter 7 (Aquatic Ecology) of the EIS (2014) submitted for the Flood Relief Scheme. Habitat types identified in the EIS included Eroding/Upland River, which entailed a relatively fast flowing river with gravel and cobble substratum. In-stream vegetation included fool's water cress, fennel pondweed and brooklime Veronica beccabunga. Riparian woody vegetation is extant along the banks of part of the river and includes typical hedgerow species including ash, hawthorn, holly, alder and blackthorn. Vegetation growing on the bridge walls was also noted, and included maidenhair spleenwort, red valerian and ivy leaved toadflax.
- 7.2.6. In the EIS Chapter 7 (2014) on the stretch of the Mall River in the environs of Small's Bridge on the southern extents of Templemore, the habitat assessment outlines this stretch of the river is likely to be used by spawning salmonids given the presence of some pool/glide habitat, and was also deemed suitable for the early life stages of salmonids, with rocks providing ample cover for young fish. The few pools along this stretch were considered suitable for holding adult trout, especially those downstream of Small's Bridge and it was outlined overall, habitat for macroinvertebrates in the environs of Small's Bridge was deemed suboptimal. For the Mall River upstream of

the N62 Bridge in Templemore Town, this stretch was regarded as a suboptimal rearing habitat for salmonids but may be used by spawning trout. Habitat for macroinvertebrates was rated marginal, with some deposited silt at Site 6 deemed suitable for juvenile lampreys.

- 7.2.7. The EIA Screening Report submitted outlines that no wetlands will be impacted by the proposed works. However, I note the Development Applications Unit of the Department of Housing, Local Government and Heritage state the existing channel is an existing linear wetland spanning over approximately 3000m², located in an urban area offering some natural habitat and biodiversity in otherwise biodiversity poor urban location, providing habitat for aquatic species and animals, and is in effect a natural treatment system or Sustainable Urban Drainage System for effluent deriving from various 26 known outfalls entering it and from surface water drainage from roads and other infrastructure. Referral is made to NIS to “low water quality due to an ongoing discharge of raw sewerage”, and the Department outlines these waters are likely rich in harmful pollutants, including chemicals derived from vehicles on adjacent roads, which could be harmful to downstream habitats including the downstream hydrologically connected River Suir SAC (site code 002137), and watercourse as stands acts a buffer somewhat slowing down the transport of potentially pollutant laden waters allowing evaporation, settlement and absorption of chemicals and sediment that would otherwise be transported quickly and deposited abruptly at a point source into the Mall River upstream of the SAC. It is outlined far from being a negative thing as identified by TCC, ecologically the accumulation of water in the old channel is a good thing, providing some protection to habitats downstream and is very similar in function to SUDS or nature based solutions being developed at cost elsewhere, with comparatively minor works on the channel could further enhance existing SUDS capabilities. It is also highlighted in a observers submission that an existing mill race connects to the river which contains a thriving natural diverse ecosystem and will be destroyed by the proposal, and a preferred method proposed by the Minister of the Environment is to use natural methods to reduce water speed and flow by retaining it at source.
- 7.2.8. The Department outline anti-social and water quality issues with stormwater/effluent contamination entering the channel should be dealt with at source rather than concealed in a pipe underground to discharge in greater concentration upstream of

the SAC, and is viewed more advantageous to have waters visible to monitor potential pollution. It is outlined climate change may exacerbate potential impacts downstream with contaminants potentially released in pulse during heavy rainfall events after dry periods and wetlands buffer against such sudden discharges while a piped point discharge will not.

- 7.2.9. It is further outlined by the Department if it is not considered possible/reasonable to retain the channel, it is suggested the construction of an artificial wetland equal in extent be constructed to take the discharge from the proposed new pipe before the point where it would discharge to the River Mall, which would fulfil similar functions and protect downstream water quality, provide some biodiverse habitat and buffer the SAC from adverse water quality impacts. The Department outline to avoid confusion, it does not consider any engineered underground attenuation tank would fulfil the same roles/offer the same protection to downstream habitats as a wetland.
- 7.2.10. The Department outline Objective 3 of Ireland 4th National Biodiversity Action Plan 2023-2030 includes Action number 3C1 that “All Public Authorities and private sector bodies move towards no net loss of biodiversity through strategies, planning, mitigation measures, appropriate offsetting and/or investment in Blue-Green infrastructure”, and the existing channel while problematic for the Council in some respects, is an ecological asset in others and is part of the Blue-Green infrastructure referred to in the plan. It is outlined any removal of it should either be prevented or compensated for by alternative Blue infrastructure.
- 7.2.11. From the details outlined in the Department submission, the 2014 EIS and following my site inspection, the old channel can be considered to currently function as wetland, natural treatment system and ecological corridor, while also buffering the Mall River and the downstream SAC from adverse water quality impacts by way of potential polluted waters.
- 7.2.12. While I acknowledge the river forms a biodiversity asset of value within the local urban context and that the proposed development is seeking to infill and remove the existing wetland habitat (aside from a short section of the channel south of O’Dwyer Bridge), it is also an abandoned river course following the OPW flood relief scheme, and I consider that the new section of the diverted channel now functions as a river and ecological corridor, forming an alternate biodiversity and ecological asset of

value to the existing subject channel within the local urban context. On this basis I am therefore satisfied that significant effects on the environment by way of net biodiversity and habitat loss would not arise. While I note the DAU comments in relation to visibility of waters to enable monitoring, that climate change may exacerbate potential impacts downstream in relation to contaminants release, and its suggested construction of an artificial wetland to address the removal of a wetland at this location, and the outlined submission, I note the nature of the abandoned river site and that the proposed scheme does include for a partial open channel, and also includes for contaminant control by way of an existing interceptor and it is further outlined in the NIS that regular checks and inspection are to be carried out to capture the silt and contamination loads from the connected outfalls. I consider this is a reasonable approach to safeguard water quality. A submission outlines that the proposal does not represent value and the Nature Restoration Law needs to be considered before any planning in Templemore could be considered. I consider proposal costings are a matter for the Local Authority and I also note that the NBAP has committed to putting a National Restoration Plan in place, which is programmed for 2026.

- 7.2.13. The EIA Screening report outlines that no vegetation removal will occur in the Town Park car park, which is within the pNHA Templemore Woods and may be used as a compound for the storage of machinery, materials, staff car parking. As the pNHA will not be subject to habitat loss during the construction phase, I consider no significant impact is likely to arise on the pNHA.
- 7.2.14. The CEMP outlines prior to vegetation removal/trimming, an invasive species survey will be undertaken. It is stated no such species have been identified in the area, and should a species be found an invasive species control and management plan will be developed by the contractor for approval by TCC. I consider the measures in relation to invasive species management are standard.
- 7.2.15. In term of aquatic ecology, the NIS outlines surveys conducted in 2014 reflected the presence of several protected species at the proposed development (when it was the channel of the Templemore_Demesne River) and downstream, including White Clawed Crayfish, Atlantic Salmon, Brook Lamprey. It is outlined in the EIA Screening Report that no significant impact is determined with regard to aquatic ecology as the river has been diverted as part of the flood relief scheme and any fish that were

present in this stretch of channel have already been translocated by Inland Fisheries Ireland in September 2021. Having regard to the site location and the details set out in the NIS and EIA Screening Report, I consider this conclusion is reasonable.

7.2.16. The EIA Screening Report outlines prior to vegetation removal and trimming, an ecological survey will be undertaken to confirm if any birds nests are present, with the nesting season running from 1st March – 31st August. It is outlined consultation will be undertaken with the NPWS if any bird nests are present and if necessary, a derogation license will be sought. I consider any removal of vegetation should take place outside of the bird breeding season and this issue can be addressed by way of condition, should the Board be minded to grant permission. I also note the NIS outlines a search of the NBDC undertaken within a 2kmX2km grid square in which the proposed development is located at, detailed the presence of 4 protected annex species Common Kingfisher, Eurasian Wigeon, Mallard, Northern Lapwing between 2011-2022, with Black Headed Gull also in evidence. Up to date surveys to ascertain as to whether these species use the site have not been outlined and I consider this should be addressed in the event of the proposal being further considered.

7.2.17. The EIA Screening report outlines some of the bridges crossing the old channel have potential as bat roosts. The NIS outlines 3 bat species are located within a 2kmX2km grid square in which the proposed development is located at in the NBDC. The CEMP outlines prior to construction commencing, a bat survey will be undertaken by an ecologist to confirm if any bat roosts are present. It is outlined if roosts are present, consultation will be undertaken with the NPWS and a derogation license sought, under Regulation 54 of the EC (Birds and Natural Habitats) Regulations 2011-2021. I note that details of a bat roost assessment or bat emergence survey have not been undertaken. However, I consider that a pre-construction bat roost assessment and emergence survey should be carried out at an appropriate season, prior to construction commencing, to avoid damage to a breeding site/resting place of a protected species. If roosts are present, as outlined, I consider a bat derogation licence should be sought. Should the Board be minded to grant permission, a suitable condition could be attached to ensure the above requirements are met.

7.2.18. In relation to otters, the NIS outlines otters are known to be in the vicinity of the proposed development and otters occasionally use the new river channel for feeding and commuting purposes, with otters also known to visit the Templemore Town Park

Lake. The NIS submitted outlines in the EIS for the River Mall (Templemore) Flood Relief Scheme carried out in 2014, it states that “in 2008 an Otter spraint and Otter print was observed 50m upstream and immediately downstream of O’Dwyer’s Bridge, respectively”. It is also outlined no evidence of Otter activity was observed in 2014, despite the presence of suitable habitat and conditions for its occurrence. The submitted CEMP outlines that a preconstruction otter survey should be undertaken by an Ecologist of the old channel immediately prior to works commencing to ensure no holts or resting places have been created. It is outlined if any are present, consultation will be undertaken with the NPWS and a derogation licence sought, if necessary.

- 7.2.19. The above surveys/recordings referenced in the EIS were undertaken prior to the works associated with the diversion of the River Mall Flood Relief Scheme being carried out, and I note that up to date mammal surveys have not been carried out to ascertain as to whether the old channel includes for otter holts or resting places, or if the old channel is used for commuting or foraging purposes by otter. Furthermore, it is not clear as to whether the proposed development would potentially lead to the permanent isolation of territories upstream and downstream of the works, or how otter will transit between areas to the north and south of the proposed development site, both at construction and operational stages. Barrier effects to commuting/foraging should be given consideration given that these may result in potential interactions with roads/cars resulting in collision risk should species not be able to follow the existing river path. Having regard to the details submitted, the nature of the site and the proposed development, I am therefore not satisfied that significant adverse effects on otter by way of habitat loss and barrier effects at construction and operational stages would not arise, and in the absence of survey information there is a potential for impacts on otter holts and resting places.
- 7.2.20. Were the Board minded to give further consideration to the proposal, further information could be sought for the above details including for up-to-date otter surveys to enable for a full assessment of the schemes likely effects on otter species.
- 7.2.21. I note among the numerous mitigation measures set out in the CEMP, there is reference to an Ecological Clerk of Works who will ensure that all ecological preconstruction surveys and mitigation measures will be adhered to, with mitigation

measures for the prevention of adverse significant effects on European Sites during construction set out in Table 6-1 of the CEMP.

- 7.2.22. In relation to **water**, the EIA Screening report outlines a drainage header pipe in the channel will collect flows from the outfall pipes, which will then connect into an existing bypass interceptor before flows are discharged to the realigned River Mall, and it is anticipated that this will have a positive effect on water quality which will now be treated before entering into the river flow. I note the receiving waterbody Suir_030 entailing the Mall River and River Suir is 'Moderate' status in the River Waterbody WFD Status 2016-2021 and 'At Risk'. While I note the submission of the DAU who outline that the proposal would remove a natural treatment system, given the treatment of flows and mitigation outlined by way of an interceptor I am satisfied that significant effects on the environment by way of potential water pollution would not arise.
- 7.2.23. I note a number of concerns have been raised in a submission in relation to flooding arising from the OPW scheme, damage from flooding, the inadequacy of the EIS for same with reference being made to the Derrybrien High Court case and inadequacy of its environmental assessment, and that the current proposal is to drain Council owned lands within a flood plain. I note the proposed subject scheme relates to an infill project, and consider that in the event of any flooding arising from an approved flood scheme this would be a matter for the relevant authorities. From my site inspection it appears part of the river boundary wall on the Dunkerrin Road has fallen into the river, however this location does not form part of the subject proposal. It is further outlined there is a conflict of interest with consultants dealing with the OPW Scheme and another previous scheme in the locality and I note these schemes are not under consideration in the current subject proposal. Concerns are outlined in relation to the impact of the infilling on properties on Patrick Street given existing water flows at this location and the necessary pipework required to ensure appropriate mitigation. Having regard to the nature of the proposal, I consider that the capacity of the pipework to accommodate flows at this location should be clarified, should the proposal be further considered.
- 7.2.24. In terms of **soil**, it is outlined where possible, local material excavated as part of the flood relief scheme will be used for infilling the redundant channel. With this material mostly consisting of sub-soil, alluvial soils, till deposits and bedrock, I consider there

is not likely to be any impact on soil. In relation to **land**, it is outlined in the EIAR Screening Report the creation of the pathway will be a positive impact for pedestrians and park users in the area, and it is planned to give the infilled channel area back to the businesses and properties which lie adjacent, which will be positive impact as they will obtain more land for their gardens, driveways, or businesses. Concerns are raised by observers on the EIA Screening Report view that business will benefit from additional lands following redevelopment, with issues raised including the removal of on street car parking for commercial customers and suppliers, impacts on existing and potential businesses, impacts on access requirements to services, alternative options, with no assessment made on commercial land uses, and no/limited consultation held on proposal. Reference is also made to the Roscrea Town Centre First Report provision for parking areas and it being similar to Templemore as a market town and it is outlined the scheme does not align with Strategic Objectives of the TEDP and CDP in relation to supporting the commercial economic functions of Templemore.

- 7.2.25. I note the proposal has been supported by a Road Safety Audit, Quality Report Audit which is stated has been carried out in accordance with DMURS Advice Note 4 – Quality Audits, Walking Report Audit and TII Templemore N62/L3220/Mall Junction Road Safety Improvement Scheme (dated March 2022), with the site located within and adjacent existing on-street parking areas and the scheme involving the removal of a number of parking spaces. I note the Quality Audit Report (QAR) makes reference to Athboy Town Centre Project and Templemore and the maintaining of parallel parking on the Main Street with DMURS referenced, however the subject proposal and QAR audit plans include for the removal of on street car parking within the site in Templemore. I also note that the EIA screening report outlines consultation between Tipperary County Council and residents and businesses has taken place.
- 7.2.26. While the proposal will involve the removal of a small number of on street car parking spaces, the number of which has not been delineated on plans, I note there is the availability of public parking spaces to the east adjacent the site on Patrick Street. I also consider that any impacts on town centre parking and businesses would also have to be weighed against the proposed developments promotion of pedestrian access, the public realm and traffic safety which align with CDP policy. I note that the

proposed pedestrian path from Patrick Street/O'Dwyers Bridge would enable for direct pedestrian access from this town centre location to the Town Park. It is however considered that a reworking of the scheme to include for a loading area/s on Patrick Street, and a safeguarding of existing fuel facilities and access to same on Patrick Street, would both benefit commercial premises and enable that significant effects on land would not arise, while also maintaining the positive aspects of the road improvement scheme. These issues could be addressed by way of condition should the Board be minded to grant permission. Concerns are raised in a submission in relation to access, parking, the need for additional footpaths and also interactions between pedestrian pathways and manoeuvres of recovery vehicles associated with commercial garage operations at Blackcastle Road. I note the site plans make provision for AC hardstanding areas along the Blackcastle Road adjacent Young's garage and the scheme has been subject to a Road Safety Audit. I note access points will be retained at this location and that pedestrian – recovery vehicle interactions have not been identified as a problem area in audits. However, I consider that the provision of adequate signage and standard safety provisions for pedestrians and recovery vehicles should be outlined to ensure for pedestrian-vehicular safety. Given the existing vehicular access points relative to AC pavements, proposed footpaths and the public road, I consider swept path analysis should be undertaken to demonstrate safe access/egress at this location. Were the Board minded to give further consideration to the proposal, further information could be sought to address these matters. Concerns are also raised in relation to the potential for anti-social behaviour/security concerns with the opening up of the streetscape adjacent to a commercial garage on Dunkerrin/Blackcastle Road. Given the visibility of this location from public roads/areas I do not consider the proposal would encourage the potential for anti-social behaviour/give rise to an additional security risk.

7.2.27. I consider issues of **air** and **climate** would not be affected by scale of the proposed works, subject to the implementation of a CEMP.

7.2.28. In relation to **material assets**, the proposed development will result in the production of demolition wastes (amounting to 109 metres of stone walls, parapets), with any material not being reused on site exported to a suitable waste handling facility. Watermains and a combined sewer cross the old river bed and as Uisce Eireann

outlines the locations of their assets need to be established in advance of their support of proposals, the applicant is required to submit a Diversion and Build-Over Enquiry. Having regard to the nature and scale of the proposal, I consider this issue should be addressed to ensure that significant effects on material assets would not arise. I have previously outlined details on roads and traffic in **land** section. While the proposal would improve the road network at this location from a safety perspective, I consider number of minor alterations should be made to the proposal to maintain a number of existing functions at this location.

- 7.2.29. Concerns are raised in submissions in relation to the impact of the proposal on Protected Structures. I consider that the proposed development would have a negative impact on **cultural heritage**.
- 7.2.30. The Archaeological Assessment has confirmed there are no known sites of archaeological significance along the route of the proposed pipe or infilling works. The observations of the application by the DAU in respect of archaeology, recommend conditions to include mitigation measures set out in AIA Report to be implemented, archaeological monitoring, archaeological reporting, and the CEMP to take into account constraints and measures in the AIA. Having regard to the nature of the works and the absence of any known archaeological heritage onsite and the observations of the DAU, I consider conditions including for archaeological monitoring and reporting to be appropriate and these issues can be addressed by condition should the Board be minded to grant.
- 7.2.31. As outlined in Sections 7.1 of this report the existing bridges (O'Dwyer Bridge, Small Bridge) forming part of the proposal are identified in the TEDP as Protected Structures (TMS73, TMS89) and policies of the CDP and TEDP afford protection to such structures. The proposed development by way of infilling the channel is seeking to conceal the views of the arches of both bridges. In addition, to address road safety improvements, the proposed development is also seeking to demolish the northern parapet wall of O'Dwyer Bridge, with a partial demolition of the southern parapet. The submitted Architectural Heritage Assessment (AHA) states the removal of the parapets would be a negative impact, but as the parapets are not part of the original structure this impact is considered moderate. I note that while it is outlined the greater part of the northern parapet wall has been rebuilt, it is outlined at the eastern end of the northern parapet wall a small section of earlier wall remains. Mitigation set

out in the AHA outlines the preparation of a full photographic and written description of both bridges should be prepared prior to parapet removal and infilling, and investigations should include a determination as to whether there are any surviving elements of an earlier bridge within the present bridge structures.

- 7.2.32. The existing protected structure O'Dwyer Bridge is a prominent historic feature on the N62 within the town centre within an ACA. While it is outlined that the parapets are not part of the original structure, I consider that the concealment of its arches, the partial demolition and alteration of its parapets within public viewing areas on the N62 and from the approach roads to same including the Dunkerrin Road approach vista, and the concealment of the arches of the protected structure Small Bridge which is a prominent feature on Church Avenue, would give rise to significant adverse effects on the character and settings of the bridges and cultural heritage of the area. I consider the proposal would also detract from the architectural character and setting of the ACA.
- 7.2.33. Were the Board minded to give further consideration to the proposal, further information could be sought for a significant re-working of the proposal including for revised layouts at protected structure bridge locations, to ensure the safeguarding of these structures.
- 7.2.34. Concerns are raised in a submission in relation to the impact of the proposal on Protected Structure TMS41 Ryan's Xpress Stop at Patrick Street and The Mall, with the structure not assessed in the AHA. Having regard to the nature of the works and development at this location, I consider the proposal would not give rise to significant adverse effects on the character and settings of this structure or any of the houses located to the east of the site on Patrick Steet and The Mall which are included on the National Inventory of Architectural Heritage (NIAH) under Ref. 22308013, 22308030, 22308050.
- 7.2.35. In relation to **landscape**, the Tipperary County Development Plan designates the site within a Landscape Character type 'Plains' – 'A1 Lowland Pasture & Arable', and is within a landscape character area '1. Urban and Fringe Areas', which has a Landscape Sensitivity Rating of robust. As highlighted in the previous section and in having regard to my site inspection, while I consider that the visual and streetscape effects of the proposed partial demolition of O'Dwyer Bridge and the concealment of

O'Dwyer and Small Bridges arches would give rise to significant adverse visual impacts within the streetscape due to the scale and extent of the proposed works, given the sites location within a landscape character area of Urban and Fringe Areas, it is considered that the characteristics of the scheme and its outlined site context would not adversely impact on this Landscape Character Unit or its overall landscape setting.

7.2.36. Having regard to the foregoing, I consider that the proposed development would have undue adverse environmental impacts. I am not satisfied that significant adverse effects on other and cultural heritage would not arise. In addition, further details would be required to ascertain as to whether there would be any significant effects on avifauna and material assets. I conclude that the proposed development would have likely significant effects on the environment.

7.3. **The Likely significant effects on a European Site:** The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

7.3.1. **Compliance with Articles 6(3) of the EU Habitats Directive:** The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.3.2. **The Natura Impact Statement:** The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area,

European Sites within the zone of influence, includes an assessment of potential impacts, an in-combination assessment, mitigation and a conclusion.

- 7.3.3. The NIS contained a Stage 1 Screening for Appropriate Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlines the methodology used in assessing potential impacts on the habitats and species within one European Site that has the potential to be affected by the proposed development.
- 7.3.4. The NIS was informed by a desk top study and ecological, mammal and aquatic surveys and EIS associated with the OPW Flood relief Scheme, which are stated to date from 2014-2021.
- 7.3.5. The report concluded that, subject to the implementation mitigation measures, the proposed development would not result in direct, indirect, or in-combination effects, and would not adversely affect the integrity of any European site.
- 7.3.6. I note an observation has been received from the DAU of the Department of Housing, Local Government and Heritage which relates to impacts on a European Site. I also note that no observation or submission has been received from any third party or any other prescribed body that relates to impact on a European site.
- 7.3.7. Having reviewed the NIS and the supporting documentation, I am not satisfied that it provides adequate information in respect of the baseline conditions and does not clearly identify the potential impacts. Details of mitigation measures are provided and they are summarised in Section 7.8 of the NIS. See further analysis below.

7.4. Appropriate Assessment

Stage 1 Screening

- 7.4.1. Section 177AE of the Planning & Development Act, 2000 (as amended), sets out the requirements for AA of development carried out by or on behalf of a local authority. Section 177AE(3) states that where a NIS has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the AA. There is no requirement for the Board to undertake screening in these cases as it is presupposed that the local authority

has established the need for AA through its own screening process (unless issues arise as to the adequacy or otherwise of the screening determination by the applicant). Nonetheless, it is considered prudent to review the screening process to ensure alignment with the site(s) brought forward for AA and to ensure that all site(s) that may be affected by the development have been considered.

7.4.2. I consider that the proposed development is not directly connected with or necessary to the management of any European site.

7.4.3. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

7.4.4. Table 1.1 European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests QI / Special conservation interests (SCI)	Distance
Lower River Suir SAC (002137)	1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> 1092 White-clawed Crayfish <i>Austropotamobius pallipes</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1103 Twaite Shad <i>Alosa fallax fallax</i> 1106 Salmon <i>Salmo salar</i> 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) 1355 Otter <i>Lutra lutra</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)	The site is located c.21km upstream of the SAC

European site (SAC/SPA)	Qualifying Interests QI / Special conservation interests (SCI)	Distance
	<p>3260 Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachium</i> vegetation</p> <p>6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles *</p> <p>91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)</p> <p>91J0 <i>Taxus baccata</i> woods of the British Isles*</p>	
Kilduff, Devilsbit Mountain SAC (000934)	<p>European dry heaths [4030]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p>	The proposed development site is located downstream and c.4.9km from the upland SAC.
River Barrow and River Nore SAC (002162)	<p>1016 Desmoulin's whorl snail <i>Vertigo moulinsiana</i></p> <p>1029 Freshwater pearl mussel <i>Margaritifera margaritifera</i></p> <p>1092 White-clawed crayfish <i>Austropotamobius pallipes</i></p> <p>1095 Sea lamprey <i>Petromyzon marinus</i></p> <p>1096 Brook lamprey <i>Lampetra planeri</i></p> <p>1099 River lamprey <i>Lampetra fluviatilis</i></p> <p>1103 Twait shad <i>Alosa fallax</i></p> <p>1106 Atlantic salmon (<i>Salmo salar</i>) (only in fresh water)</p> <p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p>	The site is located c.135km upstream of the SAC.

European site (SAC/SPA)	Qualifying Interests QI / Special conservation interests (SCI)	Distance
	1310 Salicornia and other annuals colonizing mud and sand 1330 Atlantic salt meadows (Glauco- Puccinellietalia maritimae) 1355 Otter <i>Lutra lutra</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 1421 Killarney fern <i>Trichomanes</i> <i>speciosum</i> 1990 Nore freshwater pearl mussel <i>Margaritifera durrovensis</i> 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 4030 European dry heaths 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels 7220 * Petrifying springs with tufa formation (<i>Cratoneurion</i>) 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91E0 * Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion <i>incanae</i> , <i>Salicion albae</i>)	

7.4.5. Based on my examination of the NIS report and supporting information, including the EIA Screening Report, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would agree with the applicants screening for AA and conclude that a Stage 2 Appropriate Assessment is required for **The Lower River Suir SAC** only.

- 7.4.6. The remaining **Kilduff, Devilsbit Mountain SAC (000934)** site can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distance and the lack of a substantive linkage between the proposed works and the European site. No direct habitat loss will occur within this European Site given the distance of the proposed development site from the SAC site. The proposed development site is located downstream of the upland **SAC (000934)** and is situated over 4.9km from the SAC. Given this separation distance and the lack of hydrological connectivity, the potential for significant effects to arise on this site can be ruled out. Disturbance impacts on the SAC can be ruled out as its conservation objectives relate to habitats and not fauna.
- 7.4.7. **The River Barrow and River Nore SAC (002162)** can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European site. I consider that the hydrological pathway from the source to the SAC which is via a river and tidal waters at a very significant distance of approx. 135km (nearest point is 80km), is weak given the separation distance and that dilution and dispersion of any potential pollutants in the watercourse and tidal waters would occur. I therefore consider that the proposed development would not be likely to have a significant effect on the SAC.
- 7.4.8. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites **No.000934 (Kilduff, Devilsbit Mountain SAC)** and **No.002162 (The River Barrow and River Nore SAC)** in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

Stage 2 AA

7.5. Lower River Suir SAC (002137)

7.5.1. Description of Site

7.5.2. The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co. Waterford, and many tributaries including the Clodiagh in Co. Waterford, the Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co. Tipperary. The Suir and its tributaries flow through the counties of Tipperary, Kilkenny and Waterford. Upstream of Waterford city, the swinging meanders of the Suir criss-cross the Devonian sandstone rim of hard rocks no less than three times as they leave the limestone-floored downfold below Carrick-on-Suir. In the vicinity of Carrick-on-Suir the river follows the limestone floor of the Carrick Syncline. Upstream of Clonmel the river and its tributaries traverse Upper Palaeozoic Rocks, mainly the Lower Carboniferous Visean and Tournaisian. The freshwater stretches of the Clodiagh River in Co. Waterford traverse Silurian rocks, through narrow bands of Old Red Sandstone and Lower Avonian Shales, before reaching the carboniferous limestone close to its confluence with the Suir. The Aherlow River flows through a Carboniferous limestone valley, with outcrops of Old Red Sandstone forming the Galtee Mountains to the south and the Slievenamuck range to the north. Glacial deposits of sands and gravels are common along the valley bottom, flanking the present-day river course.

7.6. Lower River Suir SAC (002137) - Conservation Objectives

- 7.6.1. The conservation objectives are set out in the Conservation Objectives for **Lower River Suir SAC (002137)** document published by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. For the QI which includes habitats and species, the conservation objective is to maintain or restore the favourable conservation condition.
- 7.6.2. The NIS outlines the sources for likely significant effects include construction works causing QI/SCI disturbance, construction works affecting water quality (e.g., contamination and siltation), spread of IAPS (invasive alien plant species), and the development operation affecting water quality (e.g., contamination and siltation). I note the NIS is informed by a number of surveys which date from 2014 which are associated with the OPW Flood Relief Scheme. In my view, the absence of up-to-date surveys in the NIS including for mammal surveys at this location does not enable for potential indirect impacts on QI otter species to be adequately identified.

7.6.3. I have examined the Lower River Suir SAC conservation objective document and the conservation objectives supporting documents for the site through the NPWS website for the SCI species, and note the site includes for protected habitats and species. QI species include Salmon, Twaite Shad, White-clawed crayfish, Lamprey species which could be affected by a decrease in water quality. In relation to otter, attributes are set out in the SAC document and its diet includes fish. One of the attributes is 'fish biomass available' which could be affected by a decrease in water quality.

7.7. Lower River Suir SAC (002137) - Potential Impacts

7.7.1. Having regard to the development proposals, I consider that the main aspects of the proposed development which could affect the conservation objectives of the European site arises from:

- Loss/degradation of habitats
- Impairment of water quality/surface water pollution during construction and operation through release of suspended solids/silt/hydrocarbons
- Disturbance /displacement to species due to construction and operation

7.7.2. Loss/degradation of habitats: The site is located a distance of over 21km (hydrological connection) from the SAC and I consider there will be no direct loss of habitat given the location of the proposed development. The NIS outlines that the spread of IAPS and deterioration of water quality by way of potential discharge of contaminants could impact on a QI habitat area and distribution during the construction of the proposed development. I consider that such effects can result in indirect habitat loss or deterioration. Mitigation measures are set out to ensure there will be no adverse effects to watercourses. These include for measures to control the spread of invasive species, siltation storage controls, stockpiling measures, use of silt curtains and buffer zones, refuelling measures, spillage controls, concrete measures, and these are referenced at sections 7.8. I consider this would be an indirect impact of the proposed development. Having regard to the separation

distance to the SAC, I consider that the effects of dilution and dispersion would serve to reduce this potential indirect effect on the SAC QI habitats.

7.7.3. In relation to the operational stage, the NIS outlines potential adverse effects to QI of the Lower River Suir SAC could arise due to the possibility of the local SuDS element (i.e., petrol interceptor) not being able to capture the likely added silt and contamination loads from the connected outfalls. Mitigation measures set out to ensure there will be no adverse effects to watercourses include a requirement for the inspection of the oil/water separators every 6 months (at a minimum) and an annual general inspection.

7.7.4. Impairment of water quality/surface water pollution during construction and operation stages: The NIS outlines a hydrological connection was identified between the proposed development site and the SAC. It is therefore considered in the NIS there is a potential for receiving waters to be impacted as a result of surface water pollution such as siltation/contaminants during the construction phase of the proposed development, and this could potentially impact on protected habitats and species and increase the mortality rate along the hydrological pathway. I also consider this could lead to a degradation of habitat and with resultant impacts decreasing food availability for SCI, and impacts on breeding SCI.

7.7.5. I note that the QI for the Lower River Suir SAC (002137) are referenced in the NIS and AA Screening Report. In term of aquatic ecology, the NIS outlines surveys conducted in 2014 reflected the presence of several protected species at the proposed development (when it was the channel of the Templemore_Demesne River) and downstream, including White Clawed Crayfish, Atlantic Salmon, Brook Lamprey. It is outlined in the EIA Screening Report that no significant impact is determined with regard to aquatic ecology as the river has been diverted as part of the flood relief scheme and any fish that were present in this stretch of channel have already been translocated by Inland Fisheries Ireland in September 2021. I note the NIS outlines no live White Clawed Crayfish were found in surveys in 2021. I have examined the Lower River Suir SAC (002137) conservation objective document through the NPWS website for the SCI, which includes for protected habitats and protected species. In the event of pollution run off to local watercourses, there is a potential for negative impacts to arise on a range of QI species including Salmon, Twait Shad, White-clawed crayfish, Lamprey species. While it is outlined in the NIS

the proposed development is not connected to the Clodiagh Sub-catchment which includes Freshwater Pearl Mussel, the deterioration of water quality within the hydrological pathway of the proposed development may affect salmonid fish, the host to the larval stage of the Freshwater Pearl Mussel, which do not restrict their presence to a given sub catchment. In addition, I note in the event of pollution run off there is a potential for water quality to affect foraging of otter species. I consider these would be an indirect impact of the proposed development. It is therefore accepted that mitigation would be required to control emissions to water. Having regard to the separation distance to the SAC, I consider that the effects of dilution and dispersion would serve to reduce this potential indirect effect.

7.7.6. As outlined in relation to the operational stage, potential adverse effects to QI could arise due to the possibility of the local SuDS element not capturing pollutant loading, and again it is therefore accepted that mitigation would be required to control emissions to water at operation stage.

7.7.7. I note the submission of the DAU who outline that the watercourse as stands acts a buffer somewhat slowing down the transport of potentially pollutant laden waters allowing evaporation, settlement and absorption of chemicals and sediment that would otherwise be transported quickly and deposited abruptly at a point source into the Mall River upstream of the SAC. The DAU outline if is not considered possible/reasonable to retain the channel it is suggested the construction of an artificial wetland equal in extent be constructed to take the discharge from the proposed new pipe before the point where it would discharge to the River Mall, which would fulfil similar functions and protect downstream water quality. I note the drainage header pipe in the channel will collect flows from the outfall pipes, which will then connect into an existing bypass interceptor before flows are discharged to the realigned River Mall. While I note the submission of the DAU, the treatment of flows and mitigation will be addressed by way of this interceptor, and this will be subject to regular inspection at operational stage. I consider this is a reasonable approach to protect water quality.

7.7.8. The NIS has made referral to low water quality due to an ongoing discharge of raw sewage...“raw sewage was discovered discharging into the river due to a combined sewer blockage” (TOBIN Consulting Engineers, 2021). It is outlined the discovery of two dead crayfish and a calcified shell near the southern end of the proposed

development is likely to be related to the mentioned contamination. The DAU has highlighted this discharge in its submission and while evidence of a discharge was not identified on the date of my site visit, with parts of the river path inaccessible, the location of this discharge has not been identified in the NIS (I note the 2014 EIS outlined a Combined Sewer Outfall (CSO) discharges to the Mall River adjacent to Smalls Bridge). I also note as to whether this issue has been rectified has not been identified in the NIS. While I consider any sewer blockage/discharge of raw sewage is a matter for the relevant authorities, should the Board be minded to further consider the proposal, clarification as to whether this issue is ongoing should be outlined.

7.7.9. *Disturbance /displacement to species due to construction and operation:* In relation to otters, the NIS outlines otters are known to be in the vicinity of the proposed development and otters occasionally use the new river channel for feeding and commuting purposes, with otters also known to visit the Templemore Town Park Lake. The NIS submitted outlines in the EIS for the River Mall (Templemore) Flood Relief Scheme carried out in 2014, it states that “in 2008 an Otter spraint and Otter print was observed 50m upstream and immediately downstream of O’Dwyer’s Bridge, respectively”. It is also outlined no evidence of Otter activity was observed in 2014, despite the presence of suitable habitat and conditions for its occurrence. The submitted CEMP outlines that a preconstruction otter survey should be undertaken by an Ecologist of the old channel immediately prior to works commencing to ensure no holts or resting places have been created. It is outlined if any are present, consultation will be undertaken with the NPWS and a derogation licence sought, if necessary.

7.7.10. The NIS outlines Otter has been reported as being a species with wide plasticity, apparently not being affected by perceived levels of disturbance and therefore, the potential disturbance from the proposed development construction phase is not considered likely to significantly affect Otter from the Lower River Suir SAC distribution. The NIS outlines it is not likely that the effects of deterioration of water quality will restrict the abundance and quality of couching sites and holts. In relation to barriers to connectivity, the NIS outlines it is not likely that any of the effects (i.e., mobile QI disturbance; spread of IAPS; deterioration of water quality) will obstruct Otter’s access to commuting routes.

- 7.7.11. I note an indirect physical pathway exists via mobile species Otter (1355) of the SAC. In my view the impact of infilling of the river on otter species is not fully assessed in the NIS. The above surveys/recordings referenced in the EIS were undertaken prior to the works associated with the diversion of the River Mall Flood Relief Scheme being carried out, and I note that up to date mammal surveys have not been carried out to ascertain as to whether the old channel to be infilled includes for otter holts or resting places, or if the old channel is used for commuting or foraging purposes by otter. Furthermore, it is not clear as to whether the proposed development would potentially lead to the permanent isolation of territories upstream and downstream of the works, or how otter will transit between areas to the north and south of the proposed development site, both at construction and operational stages. Barrier effects to commuting/foraging should be given consideration given that these may result in potential interactions with roads/cars resulting in collision risk should species not be able to follow the existing river path.
- 7.7.12. The conservation objective is to maintain the favourable conservation condition of Otter in Lower River Suir SAC. Having regard to the details submitted, the nature of the site and the proposed development, I consider there is a real likelihood of significant effects arising on SCI otter. I am therefore not satisfied the applicant has demonstrated that the proposal would not adversely affect the integrity of the European Site in view of the site's Conservation Objective for otter, by way of habitat loss and barrier effects at construction and operational stages, and in the absence of survey information there is a potential for impacts on otter holts and resting places.
- 7.7.13. In conclusion, I therefore consider there is a potential for indirect effects to occur on SCI species and on habitats by way of impacts on water quality. There is also a potential for the spread of invasive species to QI habitats at construction stage. I consider there will be no direct loss of QI habitat. I also consider there is a real likelihood of significant effects arising on SCI otter.

7.8. Mitigation Measures

- 7.8.1. Mitigation measures to be employed during the construction phase are set out in section 8 of the applicant's NIS. An outline Construction Environment Management Plan will be prepared and an Environmental Clerk of Works (ECoW) will be employed

by the appointed contractor to oversee the construction phase of the proposed development. Mitigation measures will include for:

- 7.8.2. Siltation Measures: At demolition and excavation stage this will include temporary storage of material removed from watercourse, stockpiling at appropriate heights, use of silt curtains and buffer zones for stockpiles, monitoring of stockpiles.
- 7.8.3. Contamination measures: For the compound and refuelling this will include the separation of the compound from watercourse, use of designated refuelling station, fuel/hydrocarbon storage, management of refuelling operation, use of spill kits for accidental hydrocarbon spillages.
- 7.8.4. Concrete measures will include concrete wash water being collected and disposed of to a licenced waste facility. Disturbance measures for mobile QI will include noise control at source, use of noise barriers, work to be carried out during daylight hours, artificial lighting controls. For infilling the contractor shall gain documentation from suppliers that it is free from invasive species.
- 7.8.5. For the operational stage, mitigation will include the SuDS element (i.e., petrol interceptor) being checked every 6 months to include volume of sludge, thickness of light liquid, function of automatic closure device, emptying the separator, checking the coalescing material and clean or change if necessary, check the function of the warning device, and every year a general inspection will be undertaken.
- 7.8.6. I consider that the proposed mitigation measures set out are standard and well-proven mitigation measures. However, I note specific mitigation addressing barrier and connectivity affects on otter are not set out and therefore consider that the limited mitigation as set out would not have a high degree of likely success.

7.9. Potential in-combination effects

- 7.9.1. The NIS outlines the proposed development will not result in-combination effects. Having reviewed the details submitted in the NIS, the Tipperary Planning Register Portal and the Department of Housing, Local Government and Heritages EIA map portal, I note there are a number of projects in the general works area. A project of scale includes the consented Templemore Flood Relief Scheme, which was subject to AA and is substantially complete. The pending ABP-318704-23 which includes for a wind farm located to the northeast of the site is subject to the requirements of AA and has not yet been approved. This project may only be consented if adverse

effects on the integrity of the European Site(s) can be objectively ruled out during the AA process.

- 7.9.2. Having regard to the foregoing, I am satisfied that no plans or projects are considered to give rise to potential for adverse effects on the European Site in combination with the proposed development. However having regard to the online resources referred to and the nature and scale of the proposed development, I am not satisfied that the proposed development individually would not adversely affect the integrity of the Lower River Suir SAC European site no.002137.

7.10. Residual effects /further analysis

- 7.10.1. In the absence of mitigation for QI otter, I am not satisfied that no residual impacts would occur.

7.11. NIS omissions

- 7.11.1. There are a number of significant omissions as noted. As outlined, the NIS is reliant on surveys/recordings in the EIS undertaken prior to the works associated with the diversion of the River Mall Flood Relief Scheme being carried out, and I note that up to date otter mammal surveys have not been carried out to ascertain as to whether the old channel to be infilled includes for otter holts or resting places, or if the old channel is used for commuting or foraging purposes by otter. Furthermore, it is not clear as to whether the proposed development would potentially lead to the permanent isolation of territories upstream and downstream of the works, or how otter will transit between areas to the north and south of the proposed development site, both at construction and operational stages. Barrier effects to commuting/foraging have not been given detailed consideration. Were the Board minded to give further consideration to the proposal, further information could be sought for the above details including for up-to-date otter surveys to enable for a full assessment of the schemes likely effects on otter species.

7.12. Suggested related conditions

- 7.12.1. None

7.13. Conclusion

- 7.13.1. I am not satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of the Lower River

Suir SAC European site no.002137, in view of the sites' conservation objectives, with the implementation of mitigation measures outlined above.

- 7.14. Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would adversely affect the integrity of the European site no.002137 (Lower River Suir SAC), in view of the site's Conservation Objectives.

8.0 EIA Screening

- 8.1. The Preliminary Examination and EIA Screening Report prepared by Tobin Consulting Engineers (January 2024) outlines that the proposed works are not a type of development prescribed in Schedule 5 (Parts 1 or 2) of the Regulations and as such EIA is not mandatory. It is outlined the size of the proposed application site is 3.09 ha and therefore is considered to fall within Schedule 5 Part 2 Class 10 Infrastructure Projects (iv) Urban development. It is outlined the proposed development seeks to infill a diverted stretch of old river channel approximately 805m in length and to provide necessary surface water connections currently feeding into the channel and the old channel in itself does not form part of the development works required under the River Mall (Templemore) Flood Relief Scheme and as such cannot be considered to be “canalisation and flood relief works... where the length of the river channel on which works are proposed would be greater than 2km” as outlined in Class 10 (f) (ii). It is therefore outlined that as this is the case Class 13 (a) is not applicable. In relation to Class 13 (c) it is outlined the proposed demolition (109m of stone wall and bridge parapets) has been considered against relevant Schedule 7 criteria and will not result in significant effects on the environment. It is outlined Class 15 is noted as this is applicable to any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. It is further

stated that the proposal falls within Section 50 (1) (a) (iv) of the 1993 Roads Act (as amended).

- 8.2. On the basis of the above it is outlined an EIA Screening determination is required for sub-threshold developments as per the 2001 Regulations, as amended and a screening assessment having regard to Schedule 7A and Schedule 7 is provided. The EIA screening determination states it is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development and that EIA is therefore not required.
- 8.3. I note that the EIA Screening Report submitted includes for Schedule 7 information and not Schedule 7A information as stated.
- 8.4. I consider that the classes of development which would be potentially applicable to the proposed development are the following as outlined in Part 2 of Schedule 5 of the P&DR 2001, as amended:
- Class 1 Agriculture, Silviculture and Aquaculture (a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.
 - Class 1 Agriculture, Silviculture and Aquaculture, (c) Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected
 - Class.10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
 - Class 10 (f) (ii) Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares or where more than 2 hectares of wetland would be

affected or where the length of river channel on which works are proposed would be greater than 2 kilometres.

- Class 13. Changes, extensions, development and testing (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than – - 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater. (c) Any change or extension of development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, which would result in the demolition of structures, the demolition of which had not previously been authorised, and where such demolition would be likely to have significant effects on the environment, having regard to the criteria set out under Schedule 7.
- Class 14. Works of Demolition Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- Class 15. Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

8.5. In addition to the above, **Section 50(1)(a) of the Roads Act, 1993 (as amended)**, lists road developments in respect of which there is a mandatory requirement to carry out Environmental Impact Assessment (EIA) as follows-

- (i) the construction of a motorway,
- (ii) the construction of a busway,
- (iii) the construction of a service area, or
- (iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road.

With regard to category (iv), I note that Article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) states that: “The prescribed types of proposed road development for the purpose of subsection (1)(a)(iii) of section 50 of the Act shall be –

- a) the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500m or more in length in an urban area;
- b) the construction of a new bridge or tunnel which would be 100m or more in length.”

8.6. The proposed development can be considered to fall within Section 50 (1)(a)(iv) of the Roads Act, as amended.

8.7. I note Class 1 *Agriculture, Silviculture and Aquaculture* (a) of Part 2 of Schedule 5 and the thresholds within reflect those set out in Schedule 1, Part B of the 2011 EIA (Agriculture) Regulations. In addition, Part A of Schedule 1 of the 2011 regulations sets out the following thresholds for screening for EIA:

Restructuring of rural land holdings	Screening Required
Length of field boundary to be removed	Above 500m
Re-contouring (within farm-holding)	Above 2 hectares
Area of lands to be restructured by removal of field boundaries	Above 5 Hectares

8.8. The proposed development includes for the trimming/removal of vegetation (not exceeding c.805m which is the extent of the route path) at locations to facilitate the proposal, with parts of the site running within/adjacent to street locations, commercial premises, parks, residential properties/gardens, and field boundaries of c.300m, which is well below the threshold of 4 km as set out in the P&DR. Trimming/removal of vegetation at field boundary (c.300m) locations would be below the screening threshold set out in the 2011 EIA (Agriculture) Regulations. This trimming/removal of

vegetation does not relate to the enlargement of fields. While the extent of the vegetation/field boundary trimming/removal in the EIA Screening Assessment submitted is unclear, given the length of the vegetation/field boundary trimming/removal, significant effects on biodiversity or the environment are considered unlikely. On the basis of the above, it is considered that the proposed development is not of a class of development which requires an EIA screening determination under Class 1 (a).

- 8.9. I note Class 1 Agriculture, Silviculture and Aquaculture, (c) Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected, and that the site includes for a wetland of c. 3000 sq m (0.30 ha). The 2014 EIS for the food relief scheme outlined the site included an Eroding/Upland River, and prior to the diversion of the river, the Mall River included for habitats which supported spawning salmonids trout, macroinvertebrates, lampreys. As highlighted, the existing site entails an abandoned river course following the OPW flood relief scheme. I note the DAU outlines the wetland offers some natural habitat and biodiversity in an otherwise biodiversity poor urban location. As the wetland could be affected by drainage/reclamation, I consider there is significant and realistic doubt in regard to the likelihood of significant effects on the wetland environment.
- 8.10. The threshold cited under Class 10(b)(iv) in the Regulations is an area 'greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere'. The proposed development would be located within an urban area, on zoned lands, governed by the Tipperary County Development Plan 2022-2028, accommodated on an estimated site of c.3.09 hectares. Therefore, while the proposed development is of a Class listed in Part 2, it is sub-threshold for mandatory EIA. I consider the scale, size and design of the development would not justify the need for an environmental impact assessment being significantly below the threshold for mandatory EIA.
- 8.11. The proposal does not form part of the development works required under the River Mall (Templemore) Flood Relief Scheme and is not considered to form canalisation and flood relief works. I consider that the proposed development does not fall into the category Class 10 (f) (ii), and therefore, I consider the proposed development would not fall within Class 13.

- 8.12. The proposed includes for the demolition of 109 m of stone walls and parapets. Having regard to the criteria set out in Schedule 7, I consider that the proposal falls within Class 14.
- 8.13. Having regard to the details outlined in relation to Class 1 (c) and Class 14, I consider that the proposed development falls within Class 15.
- 8.14. While the proposal could be considered to fall within Section 50 (1) (a) (iv) of the 1993 Roads Act (as amended), I consider it does not meet any of the prescribed types of proposed road development for the purpose of subsection (1)(a)(iii) of section 50 of the Act, as set out in Article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) and the scale, size and design of the development would not justify the need for an environmental impact assessment being significantly below the thresholds set out in the Roads Act.
- 8.15. As per Form 1 *EIA Pre-Screening* attached, the proposed development is considered to be sub threshold / of a class for the purposes of EIA and I have therefore proceeded to undertake a preliminary assessment as set out in Form 2 *EIA Preliminary Examination* attached with this report. This preliminary assessment concludes that there is significant and realistic doubt with regard to the likelihood of significant effects on the environment leading to a requirement for the information prescribed in Schedule 7A to be available and a screening assessment undertaken. While information set out in relation to Schedule 7 is available on the file, this is not in my opinion information clearly presented in a format that makes it clear that it is intended to comprise the Schedule 7A information.
- 8.16. In the particular circumstances of this case, and specifically having regard to the substantive reasons for refusal, it is not proposed that the Schedule 7A information would be requested from the applicant or that a screening assessment be undertaken. The Board may not agree with this approach and consider it appropriate to request the Schedule 7A information and that a screening assessment be undertaken by the inspectorate.

9.0 Recommendation

- 9.1. Having regard to the documentation on file and above assessment, I consider that the principle of the proposed development is acceptable. However, I am not satisfied

that the applicant has demonstrated that the proposal would not adversely affect the integrity of the European Site no.002137 (Lower River Suir SAC), in view of the site's Conservation Objectives. Furthermore, on the basis of the information submitted, I consider the proposal would give rise to likely significant adverse effects on otter species and cultural heritage, and therefore would not accord with the proper planning and sustainable development of the area.

- 9.2. On the basis of the above, I recommend the Board Refuse the proposed development for the reasons and considerations set out.

10.0 Reasons and Considerations

1.The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Lower River Suir SAC (Site Code 002137) is the European site for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lower River Suir SAC (Site Code 002137) in view of the Site's Conservation Objectives.

In completing the assessment, the Board considered, in particular, the

- i. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Lower River Suir SAC (Site Code 002137),
- ii. Mitigation measures which are included as part of the current proposal,
- iii. Conservation Objectives for this European Site, and
- iv. Views of the Department of Housing, Local Government and Heritage

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the inspector's report in respect of the potential effects of the proposal

on the integrity of the aforementioned European Site, having regard to the site's Conservation Objectives.

Thus, the Board is not satisfied that the Local Authority has demonstrated that the proposal would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives, as this proposal would entail barriers to connectivity and habitat loss for QI Otter species (1355), and in the absence of up-to-date survey information would potentially negatively impact on otter couching sites and holts.

In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives.

2. On the basis of the information submitted, the Board is not satisfied that the proposed development would not give rise to significant adverse effects on Annex II species otter by way of barrier connectivity effects, habitat loss and impacts on couching sites and holts, and it is therefore considered that the proposed development, would contravene Policy 11-2 of the Tipperary County Development Plan 2022-2028 which seeks to ensure the protection, integrity and conservation of European Sites and Annex II species listed in EU Directives, and would be contrary to the proper planning and sustainable development of the area.

3. It is considered that, by reason of its design and layout, the proposed development would materially and adversely affect the character and setting of the Protected Structures TMS73 O'Dwyer Bridge and TMS89 Small Bridge as listed in the Templemore and Environs Development Plan 2012, and being partially located within an Architectural Conservation Area (Main Street/Patrick's Street) in the Templemore and Environs Development Plan 2012, would also seriously detract from the architectural character and setting of the ACA and of the streetscape generally. The proposed development would, therefore, contravene Policy 13-1 of the Tipperary County Development Plan 2022-2028 and Policy BH3 and BH1 of the Templemore and Environs Development Plan 2012, and would seriously injure the

amenities of the area and be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

David Ryan
Senior Planning Inspector

12th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-318948-24
Proposed Development Summary	Templemore Redundant Channel Infill Project located on the edge of Templemore town centre and runs southwards from opposite Templemore

	<p>Town Park to Talavera, just south of Small's Bridge, on a site of 3.09 hectares.</p> <p>The development also includes a road improvement scheme.</p>		
Development Address	From Town Park to Talavera, Templemore, County Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	x
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	x		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			Conclusion No EIAR or Preliminary Examination required

Yes	x	<p>Class 1 Agriculture, Silviculture and Aquaculture (a), Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares</p> <p>Class 1 Agriculture, Silviculture and Aquaculture, (c) Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected</p> <p>Class.10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>		Proceed to Q.4
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		<p>Class 14. Works of Demolition</p> <p>Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p> <p>Class 15. Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p> <p>Section 50(1)(a) of the Roads Act, 1993 (as amended), lists road developments in respect of which there is a mandatory requirement to carry out Environmental Impact Assessment (EIA) as follows-</p> <ul style="list-style-type: none"> (i) the construction of a motorway, (ii) the construction of a busway, (iii) the construction of a service area, or (iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road. 		
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	With regard to category (iv), Article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) states that: “The prescribed types of proposed road development for the purpose of subsection (1)(a)(iii) of section 50 of the Act shall be – a)the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500m or more in length in an urban area; b)the construction of a new bridge or tunnel which would be 100m or more in length.”		
4. Has Schedule 7A information been submitted?			
No	X – I note that the EIA Screening Report submitted includes for Schedule 7 information	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318948-24
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Development Summary	<p>Templemore Redundant Channel Infill Project located on the edge of Templemore town centre and runs southwards from opposite Templemore Town Park to Talavera, just south of Small's Bridge, on a site of 3.09 hectares. The development also includes a road improvement scheme.</p>
Examination	
	Yes / No / Uncertain
<p>1. Is the size or nature of the proposed development exceptional in the context of the existing environment?</p>	<p>No - Proposal involves Redundant Channel Infill Project in urban location</p> <p>In relation to Class 1 (a) of Schedule 5 Part 2, the proposed development includes for the trimming/removal of vegetation (not exceeding c.805m which is the extent of the route path) at locations to facilitate the proposal, with parts of the site running within/adjacent to street locations, commercial premises, parks, residential properties/gardens, and field boundaries of c.300m, which is well below the threshold of 4 km as set out in the P&DR. Trimming/removal of vegetation at field boundary (c.300m) locations would be below the screening threshold set out in the 2011 EIA (Agriculture) Regulations. This trimming/removal of vegetation does not relate to the enlargement of fields. While the extent of the vegetation/field boundary trimming/removal in the EIA Screening Assessment submitted is unclear, given the length of the vegetation/field boundary trimming/removal, significant effects on biodiversity or the environment are considered unlikely. On the basis of the above, it is considered that the proposed development is not of a class of development which requires an EIA screening determination under Class 1 (a).</p> <p>While the proposal could be considered to fall within Section 50 (1) (a) (iv) of the 1993 Roads Act (as amended), I consider it does not meet any of the prescribed types of proposed road development for the purpose of subsection (1)(a)(iii) of section 50 of the Act, as set out in Article 8 of the Roads Regulations 1994 (S.I. 119 of 1994). Having regard to the scale, size and design of the development and it being significantly below the thresholds set out in the Roads Act, significant effects on the environment are considered unlikely. On the basis of the above, it is considered that the proposed development is not a type of proposed road development which requires an EIA screening determination under the Roads Act/Regulations.</p>

2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	No	
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?	Yes. The proposed development is connected to the Lower River Suir SAC and the proposed development would adversely affect the integrity of the European Site. This is assessed in the AA.	
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	Uncertain – Site includes for a watercourse and wetland and proposal involves works to protected structures	
Conclusion		
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?		
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	x
	Sch 7A information submitted?	No X – I note that the EIA Screening Report submitted includes for Schedule 7 information

Inspector _____ Date: _____

DP/ADP _____ Date: _____